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FEDERAL TRADE COMMISSION

SUPPLEMENTAL REPORT ON ANTIDUMPING LEGISLATION AND OTHER IMPORT REGULATIONS IN THE UNITED STATES AND FOREIGN COUNTRIES

JUNE 27, 1938

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June 27, 1938.

My dear Mr. President:

Herewith I have the honor to transmit the report of the Federal Trade Commission, dated June 27, 1938, on Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries as a supplement to a report on the same subject prepared by the Commission in 1934 and printed as Senate Document No. 112, 73d Congress, 2nd Session.

By direction of the Commission.

Garland S. Ferguson,
Chairman.

The President of the Senate,
Washington, D. C.

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SUPPLEMENTAL REPORT ON ANTIDUMPING LEGISLATION AND OTHER IMPORT REGULATIONS IN THE UNITED STATES AND FOREIGN COUNTRIES

The following report prepared by the Federal Trade Commission under Section 6(h) of the Federal Trade Commission Act, is supplemental to a report on Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, prepared by the Commission and printed as Senate Document No. 112, 73d Congress, 2nd Session, in 1934.

Information included therein was obtained from legislative reports, foreign periodicals, and Government papers, including consular reports received through courtesy of the United States Department of State and records of the United States Tariff Commission, Bureau of Customs in the Treasury Department, and the Division of Foreign Tariffs in the Department of Commerce.

SUMMARY OF MEASURES DURING THE PAST FOUR YEARS

As will be seen from the more detailed report which follows, a number of measures have been adopted in this country and abroad during the past four years, in addition to those adopted before and still in effect, in prevention of dumping or other restrictive or unfair practices used in import trade.

In the United States, duties have been imposed to offset bounties abroad, and in some cases goods were excluded on the ground of unfair methods of competition or unfair acts in importation. Some duties have continued in effect to prevent imports at prices below the fair value or the cost of production. The Federal Trade Commission Act was amended in 1938 to prohibit not only unfair methods of competition, but "unfair or deceptive acts or practices" in interstate and foreign commerce. A number of inquiries were made under the National Industrial Recovery Act prior to its invalidation in 1935. The Agricultural Adjustment Act was amended in 1935 and again by the Soil Conservation and Domestic Allotment Act of 1936, authorizing limitation of importation if goods are coming in under such conditions and in sufficient quantities as to render ineffective or materially interfere with the program or operation of those acts. The Trade Agreements Act of 1934, passed as an amendment to the Tariff Act of 1930, authorized trade agreements with foreign governments or instrumentalities whenever existing

duties or other import restrictions of the United States or any foreign country are unduly burdening or restricting the foreign trade of this country.

In the British colonies, especially in South Africa, numerous orders have been issued to prevent ordinary, bounty and exchange dumping. The South African law was amended in 1936 and the Australian law in 1933 and 1936. Some amendments were made in the Canadian law including exchange dumping provisions adopted in 1935. An antidumping law passed in Newfoundland in 1935 was repealed in part in 1936. A law passed in Southern Rhodesia in 1935 followed the lines of others in the British colonies; the same terms appear in the Customs Act of 1937. An exchange dumping law was passed in Egypt in 1935 and applied to goods from Japan and China. The Safeguarding of Industries Act passed in India in 1933 was followed by a bounty dumping law in 1934. In England a bill was introduced in 1934, but not passed, under which goods affected by currency inflation might have been excluded. The British Key Industries Duties Act of 1921 was again extended for a ten year period beginning in August 1936.

In France the exchange dumping measures adopted in 1931 were continued, and a number of orders have been issued affecting goods from more than twenty countries in Europe, South and Central America, and the Far East. A French decree in December 1933 provided that exchange compensation surtaxes may be withdrawn on goods from any country the currency of which has remained stable for a period of at least one year.

The Italian Government adopted a plan, through a Royal decree in 1933, for increase of duties by a "coefficient of compensation" proportionate to depreciation of currency in the country of export. Other countries that have more recently passed measures in prevention of exchange dumping include Cuba, Denmark, Egypt, Estonia, Iraq, Paraguay, Poland, and Rumania.

In addition to those already noted, measures in prevention of bounty dumping were passed in Bulgaria, Cuba, France, Japan, Poland, and Spain.

Several Latin American countries, including Bolivia, Ecuador, and Paraguay, have laws intended to protect national industries from trusts, cartels, or "arbitrary combinations" in foreign countries, and from prejudicial transportation facilities offered by combination agreements. A Spanish decree in 1934 included such a provision as to goods produced by combines or international cartels. In Brazil a decree in 1934 authorized a reduction of duties on imports if similar goods produced or marketed by Brazilian trusts or cartels are sold at high prices. A law passed in Bulgaria in 1936 would permit a lowered duty if goods are sold at unduly high prices on the local market when this is established by a price control agency.

In some laws, provision has been made to prevent the importation of goods produced by forced labor, prison labor, or by workers at low wage levels or under unfavorable working conditions (Cuba in 1935, Spain in 1934). The Spanish law provides for duties also in case of sale at prices "below the normal low prices due to the fact that in the production of the goods the international regulations in respect of social matters and especially as regards wages and working conditions have not been observed."

More general provisions are found in some measures in retaliation or defense against unfavorable trade conditions or restrictions in other countries. A Belgian law passed in 1931 and amended in 1934, provided for measures "when owing to extraordinary and abnormal circumstances the vital interests of the country are imperiled." A Netherlands law in 1934 provided for the imposition of import duties "in order to prevent the ruin of Dutch industries by foreign measures which threaten their existence." The Customs Tariff Law of Iraq in 1933 authorized duties "if at any time it shall appear that protective or retaliatory action is necessary owing to the interests of Iraq being endangered by events in a foreign country." Laws in Finland in 1933, 1935, and 1936 provided measures to offset restrictions abroad detrimental to Finnish exports. An act effective in Poland in 1934 provided for "retaliatory duties on merchandise originating in countries in which Polish goods and means of transportation receive worse treatment than is accorded to merchandise and means of transportation from other countries." In Japan a law in 1934 provided for duties in retaliation of unfavorable conditions including shipping rates, and in 1935 an import tax of fifty percent became effective on products from countries whose trade was "excessively unfavorable to Japan" or which had imposed "arbitrary" duties on Japanese goods. The Chinese Constitution, 1936, gave to the Finance Minister wide powers over tariff matters in the event of "national emergency or great econo[illegible] crisis which calls for urgent measures."

In many foreign countries, exchange control measures have offered means for the exclusion or limitation of imports under variable circumstances, including quota plans and licensing of imports. In some, such as Germany, all foreign trade has been conducted under Government regulation, and specific dumping measures are not necessary.

There is also a growing tendency toward adjustment of complaints against restrictive measures, through international agreement. That is the avowed purpose of the U. S. Trade Agreements Act of 1934, and most of the foreign trade of Europe and Latin America is now on the basis of commercial agreements between the countries involved. In some cases trade agreements have included clauses relating to dumping; no extended search has been made for clauses of this nature, but a few that have come to our attention may be cited. In this country, for instance, an exchange of notes in connection

with the reciprocal trade agreement between the United States and Netherlands, effective in 1936, provided for informal notice and opportunity for representation to be made to the other Government concerned, before any antidumping or countervailing duty is imposed. In the reciprocal trade agreement between the United States and Canada, provision was made whereby certain U. S. internal taxes were to be excluded from values for Canadian dumping purposes. After inquiries by the Tariff Commission under the National Industrial Recovery Act, orders were rendered unnecessary by agreement of Japanese exporters of pencils and rugs, and Canadian exporters of red cedar shingles, for limitation of exports to the United States, in 1934.

Under Australian and Canadian agreements, the products of each country are exempt from dumping duty in the other. Agreements between Canada and New Zealand provide that dumping duties may not be applied without prior notice to the other country and an opportunity given for remedial measures.

France has entered into a number of agreements in adjustment of controversies over exchange compensation surtaxes, including the Franco-Portuguese agreements of July 12, 1932 and July 27, 1933; a commercial agreement with the Soviet on January 11, 1934; an exchange of notes with Denmark in July 1934; a compensation agreement with Uruguay on January 25, 1935; and a commercial agreement between France and the Belgium-Luxemburg Economic Union on April 6, 1935. An agreement between France and Portugal on March 13, 1934, abrogated countervailing duties on cod-fish imported into Portugal from France or St. Pierre and Miquelon, or direct from the fisheries having been caught by French vessels.

A commercial agreement entered into by the Governments of India and Japan in 1934 included provisions for adjustment of controversies over the effects of depreciation of the Indian rupee or the Japanese yen.

THE UNITED STATES

Summary of United States Laws

In the United States, dumping duties have been provided in case of importation at less than the fair market value or cost of production abroad[1] and for the purpose of offsetting bounties or subsidies granted in foreign countries.[2] Authority is also given to exclude convict made goods or those produced by forced or indentured

1. Tariff Act of 1921, Secs. 201 to 212. See Exhibit 2 herewith.
2. " " " 1930, Sec. 303. " " 3 "

labor,[1] to impose duties in case of discrimination against the commerce of this country,[2] or to exclude entry in case of unfair competition or unfair acts in the importation of articles.[3]

Dumping is classified as an act of unfair competition in the Revenue Act of 1916, and provision made for suit in a District Court and three-fold damages if the defendant is guilty of a misdemeanor in selling imported goods at a price substantially less than the actual market value or wholesale price of such articles in the principal markets of the country of their production, or of other foreign countries to which they are commonly exported, if such act or acts be done with the intent to destroy or injure an industry in the United States, or to prevent the establishment of an industry in the United States, or to restrain or monopolize any part of trade and commerce in such articles in the United States.[4]

The Federal Trade Commission Act of 1914, as amended on March 21, 1938,[5] prohibits unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce.

Section 704 of the Act creating a Tariff Commission, September 8, 1916,[6] gave to that office authority to investigate:

> the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties, and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States.

Subsequent laws have repeated and added to the duties of the Tariff Commission, including Part 2 of the Tariff Act of 1930.[7]

The National Industrial Recovery Act[8] effective from June 16, 1933, until decision of the U. S. Supreme Court in the Schechter case in 1935[9] provided for limitation of imports through the use of fees, licenses and quantity restrictions.

---

1. Tariff Act of 1930, Sec. 307. See Exhibit 3 herewith.
2. " " " 1930, " 338. " " 3 "
3. " " " 1930, " 337. " " 3 "
4. Revenue Act of 1916, Secs. 800, 801, " " 1 "
5. Public No. 203, 63d Cong., and Public No. 447, 75th Cong.
6. 39 Stat. 795.
7. 46 Stat. 590.
8. 48 Stat. 195.
9. Schechter Poultry Corp. et al v. U. S., 295 U. S. 495.

The Agricultural Adjustment Act as amended by the Soil Conservation and Domestic Allotment Act[1] provided for inquiries by the U. S. Tariff Commission and orders by the President in limitation of imports that come into the United States in sufficient quantities and under such conditions as to materially interfere with any program or operation undertaken by the agricultural acts.

The Trade Agreements Act of June 12, 1934,[2] passed as an amendment to the Tariff Act of 1930, authorized foreign trade agreements with foreign governments or instrumentalities whenever existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of this country.

Antidumping Act of 1921

The antidumping provisions of the Tariff Act of May 27, 1921, found in Title II, Secs. 201 to 212, and known as the Antidumping Act of 1921,[3] provide for investigations by the Treasury Department and special duties to be imposed if:

> an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold in the United States or elsewhere at less than its fair value (or in the absence of such value, than the cost of production.)

No new duties have been imposed under this law, subsequent to those covered by our report in 1934, but some have been revoked. On May 31, 1938, eighteen orders of revocation were issued, leaving in effect dumping duties on:

1. Act of May 12, 1933, as amended Aug. 24, 1935, and Feb. 29, 1936, see Exhibit 4 herewith.
2. Public No. 316, 73d Congress, June 12, 1934. See Exhibit 5 herewith.
3. 42 Stat. 9. See Exhibit 2 herewith.

	From	Imposed	T.D.
Phosphate rock ----------	Morocco	Feb. 9, 1928	42577
Safety matches ----------	Finland	Mar. 23, 1931	44716
" " ----------	Austria	" 23, 1931	44718
" " ----------	Latvia	" 23, 1931	44719
" " ----------	Holland	" 23, 1931	44720
" " ----------	Norway	" 23, 1931	44721
" " ----------	Poland	" 23, 1931	44722
" " ----------	Estonia	" 23, 1931	44723
Lighting carbons --------	France	May 12, 1933	46387
Thumb tacks ----------	Germany	Sept.12, 1933	46615
Electric lamps ----------	Japan	Sept.12, 1933	46617
Footwear, rubber-soled, fabric topped ---------	Japan	Sept.12, 1933	46618
Fencing and netting, woven wire ----------	Germany	Jan. 11, 1934	46826

Section 303, Tariff Act of 1930.[1]

This law repeated with some changes the provisions of earlier acts for additional duties on goods receiving in the country of production or export a bounty or grant upon their manufacture, production or exportation, directly or indirectly bestowed by a foreign Government or by a person, partnership, association, cartel or corporation. Bounty duties may not be applied to articles on the free list. Subsequent to those covered by our report in 1934, countervailing duties have been imposed upon:

	From	Approved	T.D.
Manufactures of silk and artificial silk.	Unit. King.	Jan. 16, 1935	47475
Wine and bottles containing wine and its derivatives.	Portugal and Islands	Jan. 19, 1935	47487
Aluminum foil and manufactured articles containing aluminum.	Germany	Jan. 24, 1935	47501
Aluminum foil and manufactured articles containing aluminum.	Unit. King.	Jan. 28, 1935 Mar. 23, 1935	47502 47594
Peas ----------	Netherlands	Apr. 26, 1935	47658
Cheese ----------	Finland	May 4, 1935	47675
Fish ----------	France	May 15, 1935	47693
Fish ----------	France	June 14, 1935	47742

1. 46 Stat. 590, June 17, 1930. See Exhibit 3 herewith.

	From	Approved	T.D.
Spirits	Unit. King.	June 20, 1935	47753
Cheese	Finland	July 3, 1935	47783
Butter	Denmark	Sept.28, 1935	47896
Rye flour	Poland	Oct. 22, 1935	47943
Rye grain	Poland	Oct. 22, 1935	47944
Meats	Ireland	Mar. 26, 1936	48238
Meats	Ireland	May 20, 1936	48344
Various articles	Germany	June 4, 1936	48360
Meats	Ireland	June 2, 1936	48364
Various articles	Germany	July 22, 1936	48444
Various articles	Germany	Aug. 4, 1936	48463
Various articles	Germany	Aug. 14, 1936	48479
Butter	Australia	Oct. 2, 1936	48551
Toquilla straw	Panama	Oct. 15, 1936	48588
Butter	Denmark	Dec. 29, 1936	48734
Rye grain	Poland	Apr. 5, 1937	48914
Rye flour	Poland	Apr. 27, 1937	48944
Peas	Netherlands	Aug. 5, 1937	49114
Butter	Lithuania	Aug. 7, 1937	49122
Sugar	Australia	Sept.15, 1937	49157
Fish	Nova Scotia	Oct. 12, 1937	49196
Fish	Nova Scotia	Nov. 26, 1937	49269
Fruits	Australia	Dec. 7, 1937	49280
Fish	Nova Scotia	Jan. 18, 1938	49351
Sugar	Unit. King.	Jan. 22, 1938	49355
Codfish roe	France	Mar. 22, 1938	49471
Agricultural products -	Germany	Mar. 31, 1938	49460

In response to Senate Resolution No. 159, the U. S. Tariff Commission prepared a report in 1936 covering subsidies, bounties and other assistance given to fisheries enterprises by foreign Governments in countries exporting to the United States.

Section 307, Tariff Act of 1930.

This section prohibits the importation of goods, wares, articles and merchandise mined, produced, or manufactured in a foreign country by convict labor, forced labor, or indentured labor upon penal sanctions.[1]

Duties imposed on lumber and pulpwood from Russia in 1931 were revoked on Jan. 24, 1934 (T.D. 46854). Duties imposed on railroad ties, wooden fence posts and charcoal from the Dominican Republic on Nov. 17, 1936 (T.D. 48646) were revoked on Sept. 29, 1937 (T.D. 49172.)

1. Text in Exhibit 3 herewith.

Section 337, Tariff Act of 1930.

Section 337 of the Tariff Act of 1930[1] superseding provisions in Section 316 of the Act of 1922 (42 Stat. 858) declared unlawful unfair methods of competition in import trade, and provided for inquiries by the Tariff Commission, report to the President, and Executive Order of exclusion from entry. Appeal may be taken from the findings of the Commission, upon a question of law only, to the U. S. Court of Customs and Patent Appeals.

Inquiries under Section 337, subsequent to those covered in our report in 1934, have included:

Slide Fasteners and Parts. Temporary orders of exclusion issued August 30, 1932, and March 8 and May 12, 1933 (Bureau of Customs Circular Letters Nos. 902, 957, 991.) Findings of unfair competition promulgated by the Tariff Commission on March 20, 1933, affirmed by Court of Customs and Patent Appeals on May 27, 1934 (In re Orion Co., 71 F.(2d) 458; T.D. 47123.) Final report to the President June 18, 1934, recommending exclusion from entry. Final exclusion order issued on July 13, 1934 (T.D. 47179) pursuant to order of the President June 23, 1934; modified on November 30, 1934 (T.D. 47393) due to certain claims of two of the patents held invalid. Certain sections of this order have expired on their own terms on the dates of expiration of the patents, and other sections expire at various dates, the last in 1946.

Oxides of Iron Suitable for Pigment Purposes. Temporary order of exclusion issued March 8, 1933 (Bureau of Customs Circular Letter No. 958.) Findings of unfair competition promulgated by the Tariff Commission August 16, 1933, affirmed by Court of Customs and Patent Appeals on May 23, 1934 (In re Northern Pigment Co. et al, 71 F. (2d) 447; T.D. 47124.) Final report to the President on June 30, 1934, recommending exclusion from entry. Final exclusion order issued August 20, 1934 (T.D. 47225) pursuant to order of the President August 4, 1934. On May 7, 1935, the Tariff Commission reopened investigation on motion of importers that the final exclusion order be revoked or modified because of decision of the Court of Customs and Patent Appeals respecting process patents in In re Amtorg Trading Corporation, 75 F. (2d) 826. (See Phosphates and Apatite.) Modified order issued on January 28, 1936 (T.D. 48129) pursuant to order of the President dated January 6, 1936. This exclusion order expired by its own terms on February 14, 1938.

Phosphates and Apatite. Findings of unfair competition promulgated by the Tariff Commission on January 15, 1934,

1. Text in Exhibit 3 herewith.

reversed by Court of Customs and Patent Appeals on February 24, 1935. The court in this case reversed its former decisions with regard to process patents, and held that section 337 does not in any way increase the rights of a patentee; that the owner of a process patent has no exclusive right over the sale of any product made by the process; and accordingly the importation for use or sale of an article made abroad by a process patented in the United States is not an unfair method of competition (In re Amtorg Trading Corporation, 75 F.(2d) 826; T.D. 47583; rehearing denied April 8, 1935; certiorari denied 296 U.S. 576.) In its annual report to Congress for 1935 the Tariff Commission called attention to this case and recommended that the entire question of the rights of a patentee either of a product or a process patent should be governed by the patent law, and that the enforcement of such rights should, in all cases, be by proceedings in the Federal courts exclusively (Nineteenth Annual Report, pp. 12 and 13.)

Cigar Lighters. Tariff Commission's first investigation resulted in temporary order of exclusion issued July 8, 1933 (Bureau of Customs Circular Letter No. 1014) pursuant to President's order of July 6, 1933. Findings of unfair competition promulgated by Tariff Commission on January 4, 1934, were not appealed. Report to President March 6, 1934, recommended exclusion from entry. Final exclusion order issued April 9, 1934 (T.D. 47001) pursuant to President's order of March 17, 1934. The Tariff Commission's second investigation resulted in temporary order of exclusion issued February 21, 1935 (T.D. 47532) pursuant to President's order dated February 7, 1935. Due to decrease in domestic demand thereafter and practical cessation of domestic production because of the small demand for the type of lighter involved, the Commission did not complete findings in this investigation. The President approved the Commission's investigation as adequate under the circumstances, and on September 30, 1936, ordered the temporary exclusion order terminated (T.D. 48568.) The Tariff Commission's third investigation was begun on August 14, 1936; as to this, the Commission's annual report for 1937 stated:

> "The third formal investigation under section 337 respecting cigar lighters (Docket No. 11), instituted on August 14, 1936, was concerned principally with alleged violation by importers of certain patents owned by a domestic manufacturer and alleged simulation of cigar lighters produced by that concern. On November 9, 1936, a temporary order of exclusion from entry under sub-division (f) of section 337 was entered, and the Commission subsequently held a public

> hearing in the investigation. None of the patents involved had at the time of the investigation been adjudicated.
>
> During the investigation a United States District Court declined to enter a temporary injunction on two of the patents and expressed doubt as to their validity. The Commission decided that simulation had not been established by the evidence in the investigation and that in the absence of adjudication of the patents the maintenance of an order of exclusion was not warranted. Pursuant to recommendation of the Commission, the President on July 22, 1937, terminated the temporary order of exclusion, and on July 27, 1937, the Commission dismissed the investigation without the promulgation of formal findings." (Twenty-first Annual Report, p. 37)

Drive Springs. Temporary order of exclusion issued January 10, 1934 (Bureau of Customs Circular Letter No. 1088) pursuant to President's order of January 8, 1934. Findings of unfair competition promulgated by Tariff Commission on April 5, 1934; no appeal. Final report to President June 6, 1934, recommending exclusion from entry. Final exclusion order on July 5, 1934 (T.D. 47168) pursuant to order of the President dated June 15, 1934. This order expired by its own terms on March 4, 1935.

Coilable Metal Rules. Investigation instituted by Tariff Commission on February 8, 1934. Temporary order of exclusion issued March 3, 1934 (Bureau of Customs Circular Letter No. 1138; T.D. 46977 dated April 6, 1934); supplemented January 31, 1935 (T.D. 47498) pursuant to President's order January 22, 1935. Findings of unfair competition promulgated by Tariff Commission on October 2, 1935; no appeal. Report to President on December 2, 1935, recommending exclusion from entry. Final exclusion order issued January 23, 1936 (T.D. 48121) pursuant to order of the President on December 24, 1935. Sections of this order expire by its own terms on various dates, beginning in 1939 and the last in 1951.

Cigarette Making Machines and Parts. Tariff Commission investigation begun August 4, 1936, but suspended pending settlement of patent infringement litigation in the U. S. District Court in New York. In October 1937 the parties entered into a stipulation adjusting the controversy. The Commission's inquiry was therefore dismissed on October 21, 1937.

In its annual report for 1937, the Tariff Commission said, as to work under Section 337:

"During the past year the Commission has handled a number of inquiries and complaints concerning the violation of section 337. The original correspondence in the greater number of these complaints indicated that there was no violation of section 337. Several cases warranted preliminary inquiry, but in none of these was the institution of a formal investigation found necessary. Some of the complaints were taken up informally with importers, who thereupon agreed to desist from the practices complained of, thus obviating the need for formal investigation; in other cases that were taken up with importers the facts disclosed indicated no basis for proceeding under section 337.

Patent infringement was the principal ground of complaint and in practically all cases neither the validity nor the scope of the patents had been adjudicated. In such cases the Commission has declined to order formal investigations under section 337, and in two cases principally involving patents (discussed more fully hereafter) it has dismissed investigations which had been previously ordered.

No formal investigations under section 337 are now pending before the Commission." (Twenty-first Annual Report, p. 36.)

As to unfair methods or unfair acts in importation for use or sale in the United States of articles covered by product patents issued in the United States, and importation for use or sale of goods made according to processes patented in the United States, the U. S. Tariff Commission, in its annual report to Congress in 1935, recommended transfer of jurisdiction from the Commission to the courts. The Commission said:

"The United States Court of Customs and Patent Appeals, in a number of decisions upheld the jurisdiction of the Tariff Commission over patent cases, both with regard to product patents and process patents; on February 25, 1935 the Court, however, reversed its former decisions with regard to cases involving process patents. In the case of Amtorg Trading Corporation, 75 Federal Reporter (2d) 826, the court held that Section 337 did not increase in any way the rights of a patentee; that the owner of the process patent has no exclusive right over the sale of any product made by the process, and accordingly the importation for use or sale of products made abroad by a process patented in the United States was not an unfair method of competition. On October 14, 1935 a petition of certiorari was denied by the United States Supreme Court.

The situation created by this final decision of the court is one that requires the consideration of Congress.

The owner of a process patent issued in the United States has now no protection of any kind against the use of that patented process without his consent outside the United States, and the importation into and sale within the United States of goods made by the process. The patentee may not proceed against the user of the process because the patent grant of exclusive right to use the patented process does not extend beyond the limits of the United States; he may not proceed against the importer of goods made by the process because, under existing patent law, his sole right is against the user of the process; and no proceeding may now be started under section 337; because the importation for sale or use of articles made abroad by a process patented in the United States is not an unfair method of competition.

The Commission has not yet made a complete survey of the practice and law with regard to this matter in other countries, but so far as it has made an inquiry it finds that other countries do protect an owner of a process patent from importation of goods made by the process abroad without the consent of the patentee.

In England the courts enjoin the importers of goods manufactured abroad by a process patented in Great Britain. The patent laws of Japan expressly provide that the owner of a process patent has exclusive right over use of the process and also the sale of the product made by the process. Furthermore, it provides that it is a criminal offense to import into Japan for use or sale articles made abroad by a process patented in Japan.

The owner of a patented process has a complete and adequate remedy for the protection of that process within the United States, because he can proceed against the manufacturer and prevent any production of the article by the process other than that by himself or by his licensee. The only adequate method for protecting the owner of a patented process from competition from abroad would be through some control over the importation and sale of the product made by the process. This might be done in either of the following ways:

(1) The patent law might be amended by providing that the importation for use or sale within the United States of a product made by a patented process without the consent of the patentee was a violation of the patent right.

(2) Section 337 of the Tariff Act of 1930 might be amended by adding language that would make it clear that the unlicensed importation and sale or use of goods made by a

process patented in the United States is an act of unfair competition.

Recommendations.

The Tariff Commission, as a result of its experience in dealing with section 337, is compelled to recommend to the Congress that the entire question of the rights of a patentee either of a product patent or a process patent should be governed by the patent law and that the enforcement of such rights should, in all cases, be by proceedings in the Federal courts exclusively.

The Tariff Commission is primarily a Government agency to collect complete and scientific information concerning tariffs and the effect thereof upon the industry and revenue of the United States for the purpose of aiding the President and the Congress.

The problem of whether a certain article violates a patent, or whether a certain article was made by the use of a process patented in the United States, is a legal question of great difficulty and a very technical question. Neither the members of the Commission nor its staff is selected for the purpose of dealing with such technical legal questions. At present there is concurrent jurisdiction (respecting imports) on patents by the Federal courts and the Tariff Commission. The Commission believes that all problems connected with patents should be dealt with by one branch of the Government, and that obviously should be the Federal courts. The remedy of exclusion from entry into the United States is in many instances a more adequate remedy than an injunction which must apply only to certain named persons. However, the Commission sees no legal or practical difficulty in providing in cases of importation an additional remedy of exclusion from entry based upon a decision or ruling of the Federal courts. It believes that a procedure can be worked out which will furnish complete protection for American patents.

There is another strong reason why jurisdiction over questions of importation of patented articles of goods made by a patented process should be in the courts rather than the Tariff Commission: Before the Commission or before the Court of Customs and Patent Appeals no question can be raised as to the validity of the patent. This is a serious defect. As a matter of equity interested parties ought to be able to raise the fundamental issue as to whether a patent is valid in a proceeding which may result in so sweeping an order as a total exclusion from entry." (pages 12 to 14)

This recommendation was repeated in the Tariff Commission annual report, 1936 (pages 45 to 47).

As to all other unfair methods of competition or unfair acts in the importation and sale of merchandise, such as simulation, palming off, false branding, and other classes of unfair competition similar to those covered by Section 5 of the Federal Trade Commission Act, the Tariff Commission recommended in its annual report to Congress, 1935, that jurisdiction be transferred from the Tariff Commission to the Federal Trade Commission:

> "With regard to other cases of unfair competition the Commission must point out that the Federal Trade Commission and the Tariff Commission now have concurrent jurisdiction in all import cases other than those involving patents. The remedy under the Federal Trade Commission Act is an order to cease and desist. Such an order is not as adequate a remedy in cases of imports as an order excluding all imports of the article or commodity in question. However, there would seem to be no legal difficulty whatever in providing the additional remedy of exclusion from entry under the Federal Trade Commission Act in all cases dealing with unfair competition in the importation and sale of articles from abroad.
>
> If these recommendations are accepted by the Congress the Tariff Commission will be relieved of a class of work that is not in line with its primary functions and for which neither the Commission nor its staff is especially fitted. Secondly, the courts will have exclusive jurisdiction of all patent cases and the Federal Trade Commission will have exclusive jurisdiction of all cases of unfair competition and unfair methods of trade. This course will prevent a certain amount of overlapping and will center enforcement of the provisions about unfair methods of competition in those governmental bodies best equipped to deal therewith.
>
> If these recommendations are not accepted by the Congress, the Commission repeats its recommendations made in the sixteenth, seventeenth, and eighteenth annual reports for amendments to section 337 of the Tariff Act of 1930 in the matters of the signing of subpenas and the reimbursement of importers for premiums on bonds in cases where temporary exclusion orders were issued but where section 337 was ultimately found not to have been violated." (Annual Report of the Tariff Commission, 1935, p. 14.)

This recommendation was repeated in the Tariff Commission report for 1936:

"The experience of the Commission during the last year with section 337 has confirmed and strengthened its views. The matter is of sufficient importance to require a restatement of the arguments in favor of this course.

The functions and duties of the Tariff Commission under section 337 differ fundamentally from its general duties and functions. The Commission is primarily an agency to collect complete and scientific information concerning tariffs for the purpose of aiding the President and the Congress. It is a fact-finding body and its functions are purely economic.

Whether a certain practice or method of competition is 'unfair' under section 337 is a legal question, and the decisions of the Commission are subject to legal review in the Court of Customs and Patent Appeals. Neither the members of the Commission nor its staff are selected for the purpose of dealing with technical patent questions or of exercising quasijudicial functions.

At present the Tariff Commission and the Federal Trade Commission have concurrent jurisdiction in all import cases other than those involving patents. The Federal Trade Commission was created in 1914 and a large part of its activities have been concerned with the enforcement of the law against unfair methods of competition. It has a large legal staff and has had 22 years of experience in dealing with this difficult subject. Clearly, the Federal Trade Commission is in a position to deal more adequately with the few cases of unfair competition that arise under section 337 than is the Tariff Commission." (Pages 45-46.)

Section 338 of the Tariff Act of 1930.

Under this section, the President is empowered to impose new or additional rates of duty, not to exceed 50% ad valorem or its equivalent, on any or all products of any foreign country which "discriminates" against the commerce of this country; and in case of a continuance or increase in such discrimination, the President may order the exclusion from importation of such products.[1] No orders have been issued under this section.

As to this section, the Tariff Commission reported to Congress in 1936 that:

"The Commission studies acts of foreign countries which affect the commerce of the United States to determine whether

1. Text in Exhibit 3 herewith.

they result in discrimination against our commerce. In addition to this current general study, the Commission investigates any act or practice, involving alleged discrimination, which may be called to its attention. The President has taken no action directly under this section; he has, however, found, under the authority contained in the Trade Agreements Act, that Germany[1] and Australia[2] discriminate against the commerce of the United States and has withdrawn from them the benefits of the concessions granted to other countries." (Annual Report of the Tariff Commission, 1936, p. 47.)

In its annual report for 1937, the Tariff Commission said that one preliminary inquiry had been made during the year, under Section 338, but "the institution of a formal investigation in the case was not warranted."

The National Industrial Recovery Act.

Section 3(e) of the National Industrial Recovery Act passed on June 16, 1933,[3] provided that when imports were substantial or increasing in ratio to domestic production, and were endangering the operation of the code or agreement in any particular industry, an investigation might be ordered by the President. If investigation showed it necessary to limit imports in order that the code be not rendered ineffective, the President was empowered to bring this about by the use of fees, licenses and quantity restrictions. The United States Tariff Commission was designated as the body to make such inquiries. An imports division of the National Recovery Administration was set up to receive complaints, to make preliminary studies, and to recommend to the President for or against ordering investigation by the Tariff Commission. (See Executive Order No. 6353 of October 23, 1933.)

Complainants were required to make a prima-facie case, under rules and regulations adopted by the National Recovery Administration. (See N.R.A. Office Order No. 37 of October 24, 1933.) After the Tariff Commission, at the direction of the President, made an investigation and held public hearings, the President was empowered to act. In every instance but one, where affirmative action was taken as the result of an investigation by the Tariff Commission, relief was obtained through an agreement,

1. Under letter from the President to the Secretary of the Treasury, Apr. 6, 1938, territory formerly known as Austria is to be considered as part of Germany, from May 6, 1938.
2. On Jan. 25, 1938, the President directed the Secretary of the Treasury to apply trade agreement rates to products of Australia on and after Feb. 1, 1938.
3. 48 Stat. 195.

either with representatives of the foreign governments concerned or with the foreign exporters, voluntarily to limit shipments to this country to specified amounts, rather than to have them curtailed by the fees or quantity limitation on imports which might otherwise have been imposed by this country. In case of cotton rugs, both fees and voluntary control of the quantity of imports were employed.1/

Investigations made by the U.S. Tariff Commission under Section 3(e) of the National Industrial Recovery Act, included the following:

Wood-cased Lead Pencils (from Japan.) Investigation begun Dec. 11, 1933. Tariff Commission report to the President Jan. 17, 1934. The Japanese exporters agreed to limit exports to the United States, effective on May 1, 1934, so no order was issued.

Rugs - Cotton (chenille), Hit-and Miss, Imitation Oriental, and others (from Japan.) Investigation begun Dec. 18, 1933. Tariff Commission report to the President Mar. 26, 1934, resulted in orders on May 30 and June 4, 1934, imposing import duties. Japanese exporters agreed to limitation of exports effective in June 1934. Imposition of fees was rescinded on June 15, 1935 (after the Schechter decision.) This was the only product upon which duties were ordered under Sec. 3(e) of the N. R. A. Act. On Dec. 13, 1935, the U. S. Customs Court held that the fees on cotton rugs had been unconstitutionally collected. (Akawo & Co., Ltd. v. U. S., 77 Fed. (2d) 660.)

Quicksilver. Investigation begun Jan. 2, 1934. Tariff Commission report to the President Mar. 26, 1934, approved by the President Apr. 23, 1934. No restrictive action.

Wool Felt Hat Bodies. Investigation begun Jan. 4, 1934. Tariff Commission report approved by the President Apr. 23, 1934. No restrictive action.

Matches (from Japan.) Investigation begun Jan. 4, 1934. Tariff Commission report to the President Apr. 5, 1934, recommending imposition of duty. But amendment to the Revenue Act (Sec. 611, Revenue Act of 1934) increased the excise or sales tax on certain matches, which met the complaint; so no action was taken by the President.

1. U. S. Tariff Commission, Annual Report 1935, pp. 15, 16.

Red Cedar Shingles (from Canada.) Investigation begun Mar. 28, 1934. Tariff Commission report to the President May 22, 1934, recommended limitation of imports. Canadian exporters agreed to limitation, so no order was issued. (See also Sec. 811 of the Revenue Act of 1936,1/ Public No. 470, 74th Congress, which provides for a similar limitation.)

Household Table and Kitchen Utensils of Pottery (from Japan.) Investigation begun May 16, 1934. Tariff Commission report to the President Apr. 16, 1935.

Sun Goggles or Glasses and Frames Therefor. Investigation begun June 29, 1934. Tariff Commission report to the President Dec. 14, 1934.

Braids and Hat Bodies in part of Synthetic Textile (from Japan.) Investigation begun Sept. 5, 1934. Tariff Commission report to the President Nov. 2, 1934, did not recommend duties. Report approved by the President Nov. 28, 1934.

Ice. Investigation begun Feb. 3, 1934, - suspended.

Rubber Erasers. Investigation begun Jan. 14, 1935, - suspended after the Schechter decision in May 1935.

Horse and Mule Shoes. Investigation begun Mar. 14, 1935, - suspended after the Schechter decision in May 1935.

Bleached Cotton Cloth. Investigation begun April 19, 1935, - suspended after the Schechter decision in May 1935.

Work under Section 3(e) of the N.R.A. Act was continued until the decision of the United States Supreme Court in Schechter Poultry Corp. et al vs. U. S., 295 U. S., 495, on May 27, 1935, which held the law invalid. Imposition of fees on imported rugs, the only product upon which duties were ordered under Section 3(e) of the N.R.A. Act, was rescinded on June 15, 1935.

The Agricultural Adjustment Act, as amended.

The Agricultural Adjustment Act of May 12, 1933,2/ as amended on August 24, 1935,3/ contains a new section similar in scope and

1. Text on page 24 of this report.
2. Public No. 10, 73d Congress. Amended text in Exhibit 4 herewith, including Regulations for carrying out these provisions, issued in Executive Order, November 23, 1935.
3. Public No. 320, 74th Congress.

purpose to the invalidated Section 3(e) of the National Industrial Recovery Act. This was amended by the Soil Conservation and Domestic Allotment Act of February 29, 1936;[1] and its provisions expressly affirmed in the Agricultural Marketing Agreement Act of June 3, 1937.[2]

The law provides for investigations by the U. S. Tariff Commission, upon request of the President, and orders by the President, for limitation of importation:

> Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which any program is in operation, under this title or the Soil Conservation and Domestic Allotment Act, as amended.

Under an Executive Order issued by the President on November 23, 1935, the Secretary of Agriculture may make a preliminary investigation in such a case.

No cases have come before the Tariff Commission for formal action under this law. (See Annual Report of the U. S. Tariff Commission, 1937, p. 43.)

The Trade Agreements Act, 1934.

The Trade Agreements Act,[3] passed as an amendment to the Tariff Act of 1930, provided for reciprocal trade agreements to be negotiated by the United States with foreign countries, for the purpose of expanding foreign markets for the products of the United States, whenever the President:

> finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States.

Proclamations made thereunder, modifying existing duties and other import restrictions, may not increase or decrease by more than fifty percent any existing rate of duty or transfer any article between the dutiable and free lists.

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1. Public No. 461, 74th Congress, Section 5.
2. Public No. 137, 75th Congress.
3. Public No. 316, 73d Congress, June 12, 1934, as extended in 1937; text in Exhibit 5 herewith.

The period during which the President is authorized to negotiate foreign trade agreements was extended to June 12, 1940, by a Joint Resolution of Congress approved March 1, 1937.[1]

Three important agencies have been used to administer the trade agreement program: (1) The Executive Committee on Commercial Policy was established by the President on November 11, 1933, (functions extended by Executive Order No. 6656, March 27, 1934) comprising representatives of the Departments of State, Treasury, Agriculture and Commerce, the Tariff Commission, Agricultural Adjustment Administration, and for a time the National Recovery Administration and the Special Adviser to the President on Foreign Trade. (2) The Committee on Trade Agreements, established on June 22, 1934, comprising representatives of the same Government offices, has served with a number of sub-committees dealing with countries, commodities and special problems involved in negotiation of trade agreements. (3) The Committee for Reciprocity Information created by Executive Order on June 27, 1934, to receive information and views from private persons interested in trade agreement negotiations, as required by Sec. 4 of the Act, is representative of the same Government offices listed above, and functions under direction of the Executive Committee on Commercial Policy. The various Government departments and agencies interested in foreign trade matters cooperate through interdepartmental committees in making special studies of tariff and trade restrictions in this and foreign countries, for use in the consideration and negotiation of reciprocal trade agreements.

Agreements have been entered into under the act with seventeen foreign countries, accounting for about forty percent of the total foreign trade of the United States, as follows:

Country	Date signed	Date effective
Cuba	Aug. 24, 1934	Sept. 3, 1934
Belgium	Feb. 27, 1935	May 1, 1935
Haiti	Mar. 28, 1935	June 3, 1935
Sweden	May 25, 1935	Aug. 5, 1935
Brazil	Feb. 2, 1935	Jan. 1, 1936
Canada	Nov. 15, 1935	Jan. 1, 1936
Netherlands (in Europe, India, Surinam, and Curacao)	Dec. 20, 1935	Feb. 1, 1936
Switzerland	Jan. 9, 1936	Feb. 15, 1936
Honduras	Dec. 18, 1935	Mar. 2, 1936
Colombia	Sept.13, 1935	May 20, 1936
Guatemala	Apr. 24, 1936	June 15, 1936

1. Public No. 316, 73d Congress, June 12, 1934, as extended in 1937; text in Exhibit 5 herewith.

	Date signed	Date effective
France and colonies, dependencies and protectorates, other than Morocco	May 6, 1936	June 15, 1936
Nicaragua[1]	Mar. 11, 1936	Oct. 1, 1936
Finland	May 18, 1936	Nov. 2, 1936
El Salvador	Feb. 19, 1937	May 31, 1937
Costa Rica	Nov. 28, 1936	Aug. 2, 1937
Czechoslovakia	Mar. 7, 1938	Apr. 16, 1938

The general provisions, which vary somewhat in the different agreements, are said by the U. S. Department of State to:

> reflect the fundamental principle of equality of treatment which is essential to the restoration of international trade on a sound and non-discriminatory basis, and which this Government, in cooperation with other Governments, is seeking to buttress by means of trade agreements and commercial treaties embodying that principle.[2]

The latest agreement, that with Czechoslovakia, which came into effect on April 16, 1938, includes the best features of all the other agreements, and may be considered more or less as the standard. This agreement extends the principle of non-discriminatory treatment to quotas or other forms of quantitative restriction, as well as to foreign purchases by Government monopolies. It guarantees that there will be no restriction, condition or delay in the transfer of payment for imports, thus reducing the possibility of accumulation of blocked balances which may lead to discriminatory compensation and clearing arrangements. It safeguards importers against adverse changes in the methods of determining dutiable values, and of converting currencies in connection with products listed in the schedules. It provides fair and equitable treatment in regard to any form of exchange control. A standard clause is used providing that the agreement may be terminated on thirty days' notice if wide exchange fluctuations should seriously impair the expected benefits of the agreement.

It is also stipulated in the agreement with Czechoslovakia that it shall not extend to prohibitions or restrictions (1) relatint to public security; (2) imposed on moral or humanitarian grounds; (3) designed to protect human, animal or plant life or health; (4) relating to prison-made goods; (5) relating to the enforcement of

1. Reciprocal tariff concessions not effective after Mar. 10, 1938; remainder of the agreement continues in force.
2. U. S. Department of State, press release, March 7, 1938, in re trade agreement between the United States and Czechoslovakia.

police or revenue laws or regulations; or (6) applied to products which, as regards production or trade, are or may in future be subject within the country to State control or to monopolies exercised under State control. But each Government agrees to give sympathetic consideration to any representations which the other Government may submit to it in regard to the application of regulations concerning the importation of goods, including sanitary laws and regulations.

In some agreements provision is made for a committee of technical experts, including representatives of each of the two Governments concerned, for the examination of controversial questions regarding the application of any sanitary law or regulation for the protection of human, animal or plant life.[1] In some cases the agreement states that it shall not:

> affect the application of measures directed against misbranding, adulteration and other fraudulent practices, such as are provided for in the pure food and drug laws of the United States of America, or the application of measures directed against unfair practices in import trade, such as are provided for in Section 337 of the United States Tariff Act of 1930.[2]

As stated before in this report, an exchange of notes in connection with the reciprocal trade agreement with the Netherlands, effective in 1936, provided for informal notice and opportunity for representation to be made to the other Government concerned, before any antidumping or countervailing duty is imposed.

The trade agreement with Canada, effective in January 1936, provided for changes in the Canadian system of valuing commodities for duties, including antidumping. Prior to the agreement, the tax-paid price was taken as the basis for collecting both regular and dumping duty on imports into Canada; and goods subject to U. S. internal taxes were required to include the taxes as part of the fair market value on their Canadian invoices, even though they did not pay the taxes on goods exported. Under the agreement the U. S. internal taxes not assessable on exports, were excluded from values for Canadian duty purposes, from January 1st, 1936. As to this agreement, the U. S. Department of State has said:

> A broad advantage to many lines of American exports will result from changes in Canada's system of valuing commodities for duties. These changes are assured either by

1. Agreement between the United States and France, signed May 6, 1936.
2. Agreement between the United States and El Salvador, signed Feb. 19, 1937. This clause is used in a number of agreements.

the trade agreement itself, or by a note of the Canadian Government accompanying it. There has been gradually growing in Canada a system, taking several different forms, of applying arbitrary assessments exceeding the invoice values on imported goods. The resulting charges were materially higher, in some instances several times higher, than the nominal duty rates. On some commodities the practice meant not merely that the ad valorem rates were applied on a higher sum, but that the difference between the arbitrary value and the invoice value had to be paid as a so-called dumping duty.1/

Under Schedule II of the Canadian agreement, the importation of red cedar shingles into the United States, from Canada, may be limited. This was made effective by Section 811 of the Revenue Act of 1936 (49 Stat. 1746)2/ which provides that:

> Whenever any organization or association representing the producers of more than 75 per centum of the red cedar shingles produced in the United States during the previous half-year period shall request the President to limit the importation of red cedar shingles from Canada under paragraph 1760 of the reciprocal trade agreement entered into with the Dominion of Canada under date of November 15, 1935, and the President finds from available statistics that the total quantity of red cedar shingles produced in the Dominion of Canada which is entered, or withdrawn from warehouse, for consumption in the United States during any given half of any calendar year exceeds or will exceed 25 per centum of the combined total of the shipments of red cedar shingles by producers in the United States and the imports during the preceding half year, the President shall issue an order limiting for the six months immediately following the half of the calendar year in which said excess occurred, the quantity of red cedar shingles to be imported from Canada to 25 per centum of the combined total of the shipments and imports of red cedar shingles for such preceding half calendar year.

1. Analysis of the Canadian-American agreement, issued by the U. S. Department of State, November 17, 1935.
2. We may note in passing, other U. S. laws which have provided for limitation of imports on a quota basis, including the Philippine Independence Act of March 24, 1934 (U.S.C. title 48, sec. 1236;) the Philippine Cordage Act of June 14, 1935 (U.S.C. title 48, sec. 1236a;) and the Sugar Acts including the act of September 1, 1937 (Public No. 414, 75th Cong.) which provides for quotas governing the quantities of sugar imported from foreign countries and certain insular possessions, which may be entered or withdrawn from warehouse for consumption during each sugar quota year.

Under this act, the President issued orders on March 13, 1937, September 3, 1937, and February 25, 1938, fixing the quantities to be imported in the six months' periods:

January to June 1937,	1,048,262 squares,	T.D. 48892
July to December 1937,	892,373 squares,	T.D. 49184
January to June 1938,	916,246 squares,	T.D. 49949

AUSTRALIA

Exchange dumping provisions of the Customs Tariff (Industries Preservation) Act of 1921-1922, were amended in December 1933.1/

The law was further amended on December 7, 1936.1/ Section 7 was changed to provide that where no freight is payable on goods shipped to Australia, or the freight payable is lower than the normal freight rate, as determined by the Minister, and detriment may therefore result to an Australian industry, the Minister may publish a notice in the Gazette specifying the goods concerned, and upon the publication of such notice a "dumping freight duty" may be charged on the goods amounting to the difference between the freight payable and the normal freight rate. Under a new Section 12A, added in 1936, the dumping duty under Sections 4, 5, and 7 of the act, shall be calculated in Australian currency. Sections 4 and 5 had provided for dumping duties if goods were sold to an Australian importer at an export price which is less than the "fair market value" of the goods for home consumption in the country of export, or less than a "reasonable selling price," to the detriment of an Australian industry.

Under the Australian-Canadian agreement negotiated in 1931, Canadian products are not subject to dumping duty in Australia, and the same exemption is granted to Australian products in Canada.

A notice issued in 1934, and retroactive to October 27, 1933, imposed dumping duty on acetyl-salicylic acid originated in or exported from the United Kingdom, under Section 4 of the Industries Preservation Act.

Dumping duty imposed on kraft paper imported from any country except the United Kingdom, "the landed duty-paid cost of which is less than the manufacturers' selling price of Australian-made kraft paper" (Notice No. 261, issued under Section 5 of the Industries Preservation Act) was revoked on June 8, 1934.

Notice No. 303, dated June 11, 1935 (Commonwealth Gazette, June 14, 1935) revoked a dumping duty which had been imposed (under

1. Full text of the law as amended in 1933 and 1936, is presented herewith as Exhibit 6.

Notice No. 284) on "screws for wood of brass or iron, originated in or exported from Sweden, the landed duty-paid cost of which is less than the manufacturers' selling price of the comparable Australian made article."

Dumping duties imposed on certain goods imported into Australia were revoked on August 16, 1935: steel (imposed on December 29, 1923, under Section 4 of the Industries Preservation Act;) electric fuse boxes (imposed on July 23, 1923, under Section 4;) white lead (imposed on August 19, 1924, under Section 5;) bread and bacon slicing machines (imposed on September 24, 1924, under Section 4;) static transformers (imposed on September 24, 1924, and March 18, 1925, under Section 4;) silicate of soda (imposed on March 6, 1925, under Section 4;) and cast iron pipes (imposed on March 19, 1925, under Section 4).

Duties imposed under Section 4 on strawboard originating in or exported from Holland, applied in August 1924 (Notice No. 219, Commonwealth Gazette No. 61, August 28, 1924) were revoked on November 21, 1935.

Notices effective on December 8, 1936, under Sections 4 and 7 of the act, applied dumping duty to Portland cement imported from the United Kingdom when sold at less than £2 11s. 6d. sterling per ton, c.i.f. main Australian ports. For the purposes of Section 7, the Normal freight rate for cement from the United Kingdom was fixed at £1 3s. 6d. sterling per ton.

Duties imposed on iron and steel hoop scheduled to become effective on January 1, 1937, were postponed to April 1st, and deferred duties on plain tinned iron and steel plates and sheets, and on screw hooks, eyes and rings, scheduled to come into operation on January 1, 1937, were postponed to January 1, 1938, and July 1, 1937 (Government Gazette, December 7, 1936).

BELGIUM

A law passed on June 30, 1931, as amended on July 30, 1934 (Moniteur Belge, No. 243, August 31, 1934) provided that the Government may regulate the importation, exportation and transit of goods, and (under Article 2) may establish special fees to be levied when, owing to extraordinary and abnormal circumstances, the vital interests of the country are imperiled. A special commission was created by Ministerial Decree on March 28, 1934, to advise the Government on tariff matters and to insure cooperation of the various ministries in regulating foreign trade.

Article 2 of Law No. 2218, January 30, 1932, continued the Governmental authority to impose a countervailing duty on imported goods that enjoy a direct or indirect bounty on export from the

country of origin (theretofore covered by a law dated October 10, 1900, Article 8; and the law of May 8, 1924, Article 5).

Under a law of July 26, 1935 (Moniteur Belge Nos. 228-229, August 16, 17, 1935) provision was made for regulation of the whole of the Belgian-Luxemburg Economic Union, in the matter of licenses and quotas, through a Belgian-Luxemburg Mixed Commission set up at Brussels. The commission, which began operation in March 1936, is vested with power to issue licenses for the importation, exportation and transit of goods in behalf of the Economic Union.

BOLIVIA

Article 14 of the Tariff Law of October 1, 1927 (not covered in our report in 1934) empowered the Executive to prohibit and to limit under penalty of seizure, or to regulate, the importation of any article, animal, object, material, product, or manufacture, reporting such action promptly to the National Congress, in the following cases:

(1) To meet a national emergency.

(2) To maintain public security and order.

(3) To maintain public health, animal sanitation, and agricultural defense.

(4) To protect the State against the adoption in foreign countries of legal or regulatory measures which prejudice national commerce.

(5) To defend the State against excessive speculative activities abroad or within the Republic, for the purpose of changing prices to the prejudice of (Bolivian) national economy.

(6) To defend the State against freight rates which are prejudicial to national commerce and economy, if such freight rates are shown to be established by means of arbitrary combinations.

This act is similar to the Paraguayan Tariff Act of 1925, and the Ecuadoran Tariff Law of June 10, 1927, as amended in 1931 and 1937.

BRAZIL

The Customs Tariff Law, No. 24,343 of June 5, 1934, published on June 11, 1934 (effective on September 1st,) together with

"Preliminary Dispositions of the Tariff" published at the same time, included certain provisions in prevention of dumping:

Article 3. The Government has discretionary powers to increase the duties of the tariff by decree up to double the amount on:

(1) products of countries that deliberately attempt to embarass the entry of Brazilian products into their markets by increasing differential duties or by any other measures;

(2) specified products marketed by means of dumping, in cases when this may prejudice the domestic economy of the country.

Article 4. The Government has power to reduce import duties, and even to allow entry free of duties, for a certain length of time, in case of:

(1) articles of foreign origin that may compete with similar national goods, when the latter are produced or marketed by trusts or cartels, or when they are sold at prices equal to or higher than similar foreign goods after computation of the duties on them;

(2) certain goods with no similar national products, which shall have special characteristics imposed on them, and are intended for consumption in a specified region of the country, when such reduction may be judged necessary to the development of said region.

BULGARIA

A revised Tariff Law effective on August 31, 1936 (Official Gazette No. 195, August 31, 1936) included authority to assess anti-dumping and bounty countervailing duties:

Article 1. Imported commodities are dutiable as provided in the tariff annexed to this law.

The Council of Ministers is empowered, however, with the advice of the Minister of Finance, the Minister of Commerce, Industry and Labor, and the Minister of Agriculture and State Domains:

(1) To increase or decrease the duties fixed in this tariff, for the purpose of maintaining the relation between the value of the goods and the fixed specific rates existing when these duties were established.

(2) To increase the duties on such goods as are offered to Bulgaria at prices considerably lower than those existing in the producing country (dumping) or for the export of which to Bulgaria open or secret export bounties are given, the respective increases in such cases to be equivalent to the price difference or the export bounty.

(3) At the request of the Ministers of Commerce, Industry and Labor, to reduce the duties to as low as 20 per cent ad valorem for such products as are sold at unduly high prices on the local market, when this is established by a price control agency.

CANADA

Antidumping provisions of the Canadian Customs Tariff Act, including amendments in 1934,1/ 1936,2/ and 1937,3/ are given in full in Appendix 7 hereto. There are also given General Regulations effective in August 1937[4].

In November 1933 dumping duties were imposed on American goods imported into Canada, to offset depreciation of the American dollar. This was modified to apply only in case depreciation exceeds 5% in terms of Canadian money; and shipments into Canada by mail or express valued at less than $10 at the par rate of Canadian exchange were exempt from such duty (Order in Council November 28, 1933, published in Memorandum No. 461, Supplement Nos. 1 and 3, issued November 29 and December 2, 1933, by the Department of National Revenue.) This provision was retroactive to November 23, 1933, the date on which the value of the American dollar, for duty purposes, was proclaimed at 100 cents, Canadian.

Memorandum No. 673, Supplement 1, issued on February 10, 1934, by the Dominion Department of National Revenue, provided that special or dumping duty should not be levied on goods imported into Canada from Great Britain, Northern Ireland and the Irish Free State unless a sum less than $4.86 2/3 in Canadian currency for each pound sterling of the fair market value be paid for the said goods.

Under a ruling by the Canadian Department of National Revenue, dated March 23, 1934, cash discounts extended to customers generally in the home market, were exempted from special or dumping duty when

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1. Act of July 3, 1934, Geo. V, Chapt. 48.
2. Act of June 23, 1936, 1 Edw. VIII, Chapt. 31.
3. Act of April 10, 1937, 1 Geo. VI, Chapt. 24.
4. Memorandum, Department of National Revenue, Canada (Customs Division), Ottawa, August 18, 1937, Series D, No. 87.

earned and taken in settlement by Canadian importers (prior to this, if such cash discounts were shown to have been deducted on Canadian invoices, dumping duty was assessed equal to the amount of the cash discount.)

An Order in Council dated March 26, 1934, provided for exchange dumping duty on butter imported from New Zealand on or after January 26, 1934. (Memorandum No. 746, issued March 28, 1934, by the Dominion Department of National Revenue.)

Under an order effective on April 30, 1934, a dumping duty would have been levied on corn from the Union of South Africa, to offset payment of an export subsidy granted by the Union. But the South African subsidy was discontinued on April 30, 1934, and the Canadian countervailing duty was therefore withdrawn.

The repeal of Section 36(1) in 1934, eliminated a provision under which dumping duties had been imposed. This section had provided that the fair market value of imported goods for duty purposes should in no case be lower than "the selling price thereof to jobbers or wholesalers generally at the time and place of shipment direct to Canada." After passage of the act in July 1934, the minimum values for duty in respect of jute twines, nursery stock, and ferro-manganese were canceled, and those in respect of hats, hoods, and shapes were repealed as to importation from the United Kingdom.

A ruling by the Department of National Revenue that anthracite is not of a class or kind produced in Canada and is therefore exempt from application of special or dumping duties, was upheld by the Canadian Tariff Board in 1934.

Under a ruling by the Commission of Customs in May 1935, soya bean oil was exempt from special or dumping duties, until October 1 1935. This action was taken because Canadian producers had disposed of their stocks and would have no more to offer until the next harvest.

An order in Council dated July 20, 1935 (P.C. 2083) provided that:

> Whereas under authority of Section 6, subsection 9, of the Customs Tariff, the Governor in Council may, from time to time and as occasion requires, order and direct what shall be the rate of exchange fixed for any currency in computing the value for duty of goods imported into Canada from any place or country the currency of which is depreciated;
>
> And Whereas it is represented that in declaring what shall be the rate of exchange fixed for purposes of ordinary and special duty for the currency of such countries, it

> appears expedient that the Governor in Council should take into consideration the extent to which a rise in the general level of prices in the country whose currency is depreciated may have tended to offset the export advantage resulting from exchange depreciation, as well as the desirability of maintaining the normal relationship which has existed between the currencies of such countries and the currency of Canada; and
>
> That, in applying the rates of exchange for purposes of ordinary and special duty fixed in accordance with the considerations aforesaid, countries whose currencies at prevailing commercial rates of exchange are not depreciated in terms of the Canadian dollar by more than five per centum should not be included within the scope of any Order in Council issued under authority of Section 6, subsection 9, of the Customs Tariff.
>
> Now Therefore, The Deputy of His Excellency the Governor General in Council, on the recommendation of the Right Honourable the Prime Minister for the Minister of National Revenue, is pleased to order and it is hereby ordered that the rate of exchange for computing the value for ordinary and special duty of goods imported into Canada from the undermentioned countries during the period of six months from the date of publication of this Order in Council, shall be fixed, under authority of the provisions of Section 6, subsection 9 of the Customs Tariff, as hereunder indicated:-
>
> | | |
> |---|---|
> | Denmark - Krone ..... | $0.2312 |
> | Finland - Mark ..... | 0.0234 |
> | Japan - Yen ..... | 0.4151 |
> | Norway - Krone ..... | 0.2592 |
> | Sweden - Krone ..... | 0.2584 |

An Order in Council dated December 28, 1935 (P.C. 3974) canceled the order of July 20, 1935 (P.C. 2083) and substituted the following:

> The rate of exchange for computing the value for ordinary and special duty of goods of a class or kind made or produced in Canada imported from the under-mentioned countries, shall be and is hereby fixed as hereunder indicated, effective from 1st January 1936, for a period of one year from that date:
>
> | | |
> |---|---|
> | Denmark - Krone ..... | $0.2371 |
> | Finland - Mark ..... | 0.02215 |
> | Japan - Yen ..... | 0.395 |

An Order in Council dated December 28, 1935 (P.C. 3975) effective on January 1, 1936, suspended the surtax of 33-1/3% imposed under regulations in Order in Council of July 22, 1935 (P.C. 2108) as amended by Order in Council of August 3, 1935 (P.C. 2317) upon articles the growth, produce or manufacture of Japan, when imported into Canada. This action was taken in recognition of cancellation by Japan, effective January 1, 1936, of the surtax of 50% ad valorem which had been levied since July 20, 1935, on certain commodities constituting the principal exports of Canada to Japan (Statutes of Canada, 1936, 1 Edw. VIII, p. XVI.)

Under the terms of the trade agreement between the United States and Canada, changes were made in the Canadian system of valuing commodities for duties, including dumping duties. Prior to January 1, 1936, the tax-paid price was taken as the basis for collecting both regular and dumping duty on imports into Canada; and goods subject to United States internal taxes were required to include the taxes as part of the fair market value on their Canadian invoices, even though they did not pay the taxes on goods exported. Some exceptions had been made to this rule, including exemptions granted to hog products, cotton products, gasoline and lubricating oils, wheat products, corn products, vegetable oils and rice.

In April 1937, subsection (11)[1/] was added to Section 6 of the law, in order to implement the undertaking of the Canadian Government with respect to the German Payments Agreement effective on November 15, 1936. An Order in Council effective on April 23, 1937, fixed the value of the German reichsmark at 32 cents in Canadian currency for computing the value for regular and dumping duty purposes, on goods imported from Germany.

An Order in Council dated September 8, 1937 (P.C. 2196) authorized exemption from special or dumping duty on tinplate of a class or kind made in Canada, as provided for in Tariff Item No. 383 (b) imported into Canada between September 1st and December 31, 1937.

CHINA

Under the Chinese Constitution published on May 5, 1936 (Ch. IV, Sec. 1, par. 44) the Finance Minister is given wide powers over tariff matters "in the event of national emergency or great economic crisis which calls for urgent measures." The President may issue emergency mandates, but these must be submitted to the Legislative Yuan for confirmation.

1. See Exhibit 7 herewith.

COLOMBIA

Executive Decree No. 1588 dated July 6, 1936, and effective on August 1st, placed all imports under license control of the Exchange and Export Control Office. Broad authority of this sort may well be used in prevention of dumping or in retaliation of restrictions abroad, without specific dumping provisions.

CUBA

A law on February 9, 1926 (not covered in our report in 1934) included provisions against dumping:

> The Executive is further authorized, by and with the advice of the technical tariff commission, to establish countervailing duties to offset foreign bounties, direct or indirect, and to adopt any measure of protection for the national industry or commerce against the various forms of foreign dumping. (Article IV)

A similar provision is found in Article IV of the Tariff Act of October 25, 1927, under which the compensatory duty shall be equal to said subsidy, taking into consideration any depreciation in the money of the country of origin or shipment.

Under Law No. 14 dated March 15, 1935, control of imports was established, and a National Tariff Commission authorized to advise the President as to measures which are necessary for the protection of national industries and the prevention of foreign dumping. Upon recommendation of a Committee including the Secretaries of Commerce, Agriculture and Finance, the President was authorized to increase the duties of the maximum general tariff:

> Article IV. The President of the Republic is authorized to increase the duties of the maximum general Tariff, on previous information from the Special Committee against Dumping, in the following cases:
>
> (1) on those articles grown, produced or manufactured which enjoy in the country of origin or from which they come, a direct or indirect bounty on being exported;
>
> (2) on those articles grown, produced or manufactured which, as a result of profound economic reactions, indicated in the countries of their origin by the considerable decline in currency exchange, or by the lower level of wages, would be able to enter Cuba with such advantages that normal conditions would be vitiated to the extent that the national industry, agriculture, or commerce would be placed in great danger.

Article V. The President of the Republic is authorized to adopt any measure of protection for the national industry and commerce against various forms of foreign dumping, on the previous report of the National Tariff Commission. Also the President is authorized, on the proposal of the Secretary of the Treasury, to order the application of the Maximum General Tariff, and increases therein, in those cases in which in his judgment it may be urgent and necessary, and until the National Tariff Commission submits its report in accordance with this law.

Under a decree, No. 1098, April 26, 1935 (Gaceta Oficial, May 4, 1935) duties were placed on textiles manufactured in Japan.

Decree Law No. 293, effective on October 5, 1935, continued the operation of the Dumping Committee and provided further for the creation of a Technical Tariff Commission in the Department of Treasury, which shall consist of the Director General of Customs, as president, and one delegate each from the Departments of State, Treasury, Agriculture and Commerce.

Law No. 14 of March 15, 1935, was modified by Decree Law No. 611, February 21, 1936, effective on publication in the Gaceta Oficial of February 22, 1936; and again modified by Decree Law No. 806, April 4, 1936, effective on publication in the Gaceta Oficial on April 13, 1936.

CZECHOSLOVAKIA

A law dated June 22, 1926 (not covered in our report in 1934) provided that if imported goods menace the national production through unfair competition, resulting from special Governmental dispositions of any kind, such as the granting of favors upon exportation, or otherwise, with the introduction of longer working hours or other unfavorable social conditions of labor, and the like, or resulting from depreciated currency; adequate measures shall be taken for the indispensable protection of domestic production, and in particular by fixing a special duty or a surtax, or by limiting importation. The Government shall appoint a Board (Consulta) for which there shall be proposed two members by the Minister of Finance, two by the Minister of Commerce, and two by the Minister of Agriculture.

The National Defense Law, No. 131 of May 13, 1936, as supplemented by Decree No. 197, July 8, 1936 (published and effective on July 10, 1936) provided for a strict control of all products of "war industries" including food, clothing, and practically all industrial goods.

DENMARK

The law of December 21, 1934, authorizing control of exchange in Denmark, included a provision whereby in applying exchange regulations, due consideration must be given to prevent manifest dumping; but the regulation of imports must not serve as a basis of an unjustifiable increase in the price of domestic products.

The Exchange Law of December 17, 1935, Section 3, provided that: "In carrying out the measures in question, due regard will be paid to the prevention of ostensible dumping and unreasonable price increases." A similar provision is found in the Foreign Exchange Control Law of March 31, 1937, effective to March 31, 1938, and in the Law for the Defense of Danish Currency approved by the Parliament on December 16, 1937, to become effective immediately and to remain in force until the end of December 1939.

ECUADOR

The Tariff Act of July 1, 1927, as amended by Legislative Decree on October 27, 1931, and by Decree No. 803 of October 31, 1936 (Registro Oficial No. 335, November 10, 1936) authorized the President to prohibit and regulate importation under certain conditions, giving immediate account thereon to the National Congress:

Article 4. The Executive Power is authorized to decree the inclusion of articles not specified in the items free of duty, among those of the specified items, wherever such inclusion is necessary because of essential similarity, for the purpose of applying Rule XIV, Article 6.

The Executive Power may prohibit under penalty of confiscation the importation of any article, animal, object, material, product or manufacture in the following cases of public necessity; and he shall give an exact account thereof to Congress:

(1) for the purpose of meeting a national emergency;

(2) to maintain public safety and order;

(3) to maintain public health and the protection of agriculture and cattle raising;

(4) to protect the national interests against adoption in foreign countries of legal measures or regulations which jeopardize the commerce of the Republic;

(5) to protect the national interests against maneuvering or exaggerated speculation, caused by trusts or other financial groups abroad or in the Republic, to alter prices in jeopardy of the country's economy;

(6) to protect the national interests against freight rates prejudicial to the commerce and economy of the country, if it is proved that such freight rates were established by means of arbitrary combines.1/

The Executive Power may also increase to the extent of 50 per cent or decrease to the extent of 30 per cent the duties established in this tariff, after consultation with the Council of State, and he must give account thereof to the National Congress. The increase or decrease shall be made only for these purposes:

(1) to meet an emergency of general interest;
(2) to protect Ecuadoran production; and
(3) to protect national interests against every kind of speculation injurious to the national economy.

Supreme Decree No. 83, February 13, 1936 (Registro Oficial No. 120, February 20, 1936) provided that:

Article 8. When the importations from a country exceed by more than 30 per cent the exports made to the same country, the Minister of Hacienda, in agreement with the Minister of Commerce, may order the establishment of a compensation system or the imposition of a surcharge on the merchandise comprising such importations, which surcharge may amount to as much as 50 per cent of the respective import duties.

To this end, during the month of January in each year, the Director of the Technical Department will report to the Ministers of Hacienda and Commerce upon the commercial balance existing during the previous year with the countries falling within the provisions of the first paragraph of this article, and the Minister of Hacienda will make the disposition he deems more convenient.

Decree No. 68 issued on July 3, 1936, established a surcharge of 50 per cent of the basic customs duties on imports from Japan, Canada, Trinidad, Sweden, Russia, Finland, British India, and Norway, with some exceptions (did not apply to newsprint and other paper products,

1. Sections 1 to 6 quoted above are similar to provisions in laws passed in Paraguay in 1925 and in Bolivia in 1927. The Ecuadoran clauses were passed in 1927.

porcelain and earthenware, raw and semi-manufactured materials in general, and duty free merchandise). The surcharge on Swedish goods was suspended on October 1, 1936. A decree dated March 2, 1938, applied the 50 per cent surcharge to imports from the United Kingdom, Arabia, Austria, Bulgaria, Canada, China, Salvador, Spain, Straits Settlements, Estonia, Finland, Greece, Hungary, French East Indies, British India, Indo-China, Iraq, Jamaica, Kordofan, Lithuania, Nigeria, Norway, Palestine, Persia, Portugal, Rumania, Syria, Sudan, Sweden and Zanzibar.

EGYPT

Law No. 2, February 14, 1930 (published in Journal Official No. 16-Extra, February 15, 1930) authorized the Government to issue decrees, having the force of law, in order to:

(1) Impose a countervailing duty upon bounty-fed goods equal to the amount of such bounty.

(2) Protect Egyptian trade against foreign obstruction by appropriate provisions.

(3) Apply surtaxes equal to the amount of duty to imports from countries applying especially high duties, surtaxes, or discriminating systems prejudicial to Egyptian goods.

(4) Subject, on terms of reciprocity, specified foreign goods to additional duties or taxes similar to those applied in the country of origin to specified Egyptian goods.

This act was amended by Decree Law No. 108 of September 19, 1935, authorizing imposition of a surtax on goods imported from countries whose currencies are depreciated:

Article 1. There is added to Law No. 2 of 1930 an article 3a as follows:

There may also be established, by decree having the force of law, on all merchandise which is the product of or which may be exported from countries whose money has suffered a depreciation in relation to the money of Egypt, a duty in the nature of a compensation for the advantages resulting from the depreciation aforesaid.

Also, on September 19, 1935, a duty of 40% ad valorem was levied on certain goods imported from or originating in Japan, including: fabrics and hosiery of pure cotton or containing 50 per cent or more of cotton; cotton thread; fabrics and hosiery of pure artificial silk or containing 50 per cent or more of artificial silk; velvets and plushes of pure cotton or of cotton mixed with other textile

materials or of pure artificial silk or artificial silk mixed with other textile materials; garments, lingerie and other sewn articles of cotton or containing 50 per cent or more of cotton; garments, lingerie and other sewn articles of artificial silk or containing 50 per cent or more of artificial silk.

A decree effective on December 19, 1935 (Journal Officiel, December 19, 1935) imposed a depreciated currency surtax of 40 per cent ad valorem on certain goods manufactured in China or shipped from China, and imported into Egypt, unless it were proven that they originated in some other country, including: fabrics and hosiery of pure cotton or containing 50% or more of cotton; cotton thread; fabrics and hosiery of pure artificial silk or containing 50% or more of artificial silk; velvets and plushes of pure cotton or of cotton mixed with other textile materials or of pure artificial silk or artificial silk mixed with other textile materials; garments, lingerie and other sewn articles of cotton, or containing 50% or more of cotton; garments, lingerie and other sewn articles of artificial silk, or containing 50% or more of artificial silk.

ESTONIA

An Executive Decree on September 2, 1936 (Official Gazette No. 74, September 15, 1936) provided that:

> (3) The Acting President has the authority to impose any special charges such as anti-dumping duty, surtaxes, import license fees, etc., and there is no limitation on this authority.

In an agreement dated July 27, 1933, supplemental to the commercial treaty of March 15, 1929, Estonia and France agreed not to impose a depreciated currency surtax on their respective imports unless the ratio between the Estonian and French currencies existing at the time of conclusion of the agreement should change by more than 20 per cent as the result of the depreciation of the Estonian or the French currency, as the case may be, and further agreed that if that proportionate change should be exceeded and the products of one of the two countries should be subjected to a depreciated currency surtax on importation into the other, this measure shall be extended, in the same conditions, to the products of all countries placed in the same monetary situation.

FINLAND

A law of January 13, 1933, effective until December 31, 1933, and extended on December 30, 1933, provided that if, by reason of increase in duties, introduction of special imposts, restriction of imports or the right to obtain exchange, or other comparable

measures taken by another country, the exportation of Finnish goods to that country be hampered, measures of like kind and extent may be applied to imports from the country into Finland, through decrees which may be issued without Parliamentary action if Parliament is not in session, but must be submitted to Parliament for action as soon as it assembles (Deutsches Handels-Archiv, 1933, p. 1178). Subsequent laws continued this authority even though Parliament were in session, but Parliamentary right to cancel the action was retained. A similar provision is found in the Law regarding the Government's Authority to Issue Necessary Decrees to Safeguard Finland's Export Trade, No. 435, December 31, 1935, which stated that:

> Article 1. If in any country the exportation of Finnish products to the said country is rendered difficult by raising customs tariffs or imposing extra charges or restricting imports or the right of obtaining foreign exchange, or by other comparable measure, decrees providing for, in their character and bearing, corresponding regulations concerning the imports from Finland from the country in question may be issued to safeguard Finland's export trade.

Customs Law No. 427, December 23, 1936, authorized in Article 3, punitive rates up to three times the regular duties or up to 100% ad valorem on duty free goods, or on those already subject to ad valorem duties, upon imports from countries that discriminate against Finnish vessels or goods.

The Law Regarding the Regulation of Exports in Certain Cases, No. 433 of December 30, 1936, provided that:

> Article 1. Whenever the importation of Finnish export articles into any country is restricted by quotas or other restrictions, the exports of the country in question may be regulated by administrative decrees if so required by the country's export interests.

FRANCE

The 1931 decree providing for exchange compensation surtax, has continued in effect with some modifications.

As to goods imported from Portugal, duty imposed on June 17, 1932, was revoked on October 8, 1932, in accordance with a Franco-Portuguese agreement of July 12, 1932 (this agreement expired on June 2, 1933) but was reimposed at the rate of 20 per cent ad valorem under a decree published in the French Journal Officiel on July 6, 1933. A decree dated March 17, 1934, effective on March 31st, withdrew the exchange compensation surtax on Portuguese goods, in

accordance with a commercial agreement between the two countries, signed on March 13, 1934.

An order dated December 11, 1933 (Journal Officiel, December 12, 1933) granted exemption from exchange compensation surtax to goods from the United Kingdom and certain other countries, including: tallow (not hydrogenated, other than "pressed" tallow for the manufacture of edible fats,) cassia lignea, bran, and machines for the manufacture of paper, pulp, etc., which permit a working width of four metres or over.

A French decree dated December 27, 1933 (Journal Officiel, December 30, 1933) provided that exchange compensation surtaxes may be withdrawn on goods from any country the currency of which has remained stable for a period of at least a year. In furtherance thereof, a decree dated December 28, 1933, (Journal Officiel, December 31, 1933) effective on January 1, 1934, withdrew the exchange compensation surtax on goods from the United Kingdom, Ceylon, Straits Settlements, the Federated and Non-Federated Malay States, Hong Kong, and the Irish Free State. These surtaxes were 25% ad valorem on goods from Hong Kong, and 15% on imports from the other countries listed. A similar decree was promulgated in Madagascar by local order published February 3, 1934.

A decree dated January 23, 1934, (Journal Officiel, January 24, 1934) effective on January 11th, withdrew the exchange compensation surtax on goods imported into France from the Soviet Union (in accordance with a commercial agreement between France and the Soviet, signed on January 11, 1934.) Prior to this, Soviet goods had been subject to a levy of 25% ad valorem effective from March 1933.

Depreciated currency surtax on Estonian goods, imposed by decree of August 3, 1933, was canceled by decree of August 5, 1933, in view of a supplementary agreement dated July 27, 1933, to the commercial treaty of March 15, 1929, whereby both countries agreed not to impose a depreciated currency surtax on their respective imports unless the ratio between the Estonian and French currencies existing at the time of conclusion of the agreement should change by more than 20 per cent as the result of the depreciation of the Estonian or the French currency, as the case may be, and further agreed that if that proportionate change should be exceeded and the products of one of the two countries should be subjected to a depreciated currency surtax on importation into the other, this measure shall be extended, in the same conditions, to the products of all countries placed in the same monetary situation.

A decree dated August 7, 1934 (Journal Officiel, August 8, 1934) withdrew the exchange compensation surtax on Danish goods imported into France, in accordance with an exchange of notes between the two countries on July 31, 1934. France reserved the right to reinstate

the tax if the Danish crown should depreciate further by more than 20 per cent.

A decree on October 3, 1934 (Journal Officiel, October 4, 1934) withdrew the exchange compensation surtax on goods imported into France from Canada.

The exchange compensation surtax on Uruguayan goods was withdrawn by a decree dated February 2, 1935 (Journal Officiel, February 3, 1935,) in furtherance of a compensation agreement signed by the two countries on January 25, 1935.

A commercial agreement between France and The Belgium-Luxemburg Economic Union, dated April 6, 1935 (French Journal Officiel, April 10, 1935), included measures intended to prevent the devaluation of the Union currency from resulting in an influx of goods from the Union to the French market at prices that would upset trade. The parties agreed that as regards goods subject to import restriction in France, the grant of licenses or quota certificates should be subject to a written undertaking by the seller to sell at prices which will not be lower than the current prices which were or would have been operative on the French market if there had not been any devaluation of the Belgian currency. As to other goods, the Belgian and Luxemburg Governments undertook to prevent sales to France being effected at lower prices on account of the devaluation, if necessary by instituting a system of licenses. The agreement was entered into for a period of six months.

A decree dated October 2, 1936 (Journal Officiel, October 3, 1936), withdrew the exchange compensation surtax of 15 per cent on goods originating in and coming from Australia, Egypt, British India and Indian Native States, New Zealand, Paraguay, Argentina, the Union of South Africa and Mexico; and reduced the rate of surtax on goods from Japan and China from 25 to 10 per cent. This action was taken in consequence of devaluation of the French franc.

A law dated July 9, 1937 (Journal Officiel, July 10, 1937), effective until January 31, 1938, conferred upon the Government special powers to modify customs duties by decree, such decrees to be submitted to Parliament for subsequent ratification. The law also modified the antidumping powers of the Government:

The Government may, by decree of the Council of Ministers:

(1) Assess a compensating tax on dutiable or non-dutiable merchandise which benefits, in its country of origin or of export, from a bounty or a direct or indirect export subsidy, whatever its nature, origin or method of attribution. Also is subject to this provision, merchandise originating in, or exported from certain countries, when the price of the merchandise at the French frontier is at

least 20 per cent lower than the prices on which the minimum tariff applicable was calculated. However, this provision will not be applicable if the reduction in foreign import prices at the French frontier is the consequence of a general lowering in production costs, occurring at the same time in France and in the principal producing countries.

A decree dated January 30, 1933 (Articles 1 to 3) applicable in the French Zone of Morocco, provided for compensation duties on imports from countries "where products and merchandise benefit from export premiums or analogous advantages which lower the price beneath the normal return." The rate of the duties shall be calculated "so as to reestablish the actual value of these products and merchandise at a parity with that normally and fairly practiced by the other importing countries benefiting by the most-favored-nation clause," and shall be fixed by decisions of the Director General of Finances after advice of a special commission comprising the Chief of the Bureau of Commerce and Industry, two members of the Chambers of Commerce and Industry, an agent of the Bureau of Customs and Excise, and an expert named by the Secretary General of the Protectorate.

GERMANY

Under the Enabling Act of March 24, 1933, now made effective until April 1, 1941, the Government has complete authority to limit and control foreign trade, introduce export and import duties, and to put into effect commercial agreements with other countries. A Central Bureau to direct the control boards, was created under the Foreign Exchange Control Law of Feb. 4, 1935.

GREAT BRITAIN

Antidumping measures were proposed in 1932; and in January 1934 a bill was introduced, but not passed, which would have given customs commissioners authority to exclude imports from a foreign country in which "currency inflation manipulation be employed for the purpose of enabling such article to be sold in Great Britain at a price below the cost of production."

The British Key Industries Duties Act, 1921,1/ at first effective for five years, was continued for ten years more by the Finance Act of 1926; and in 1936 was again extended for a ten year period beginning on August 19, 1936.

1. Text in our 1934 report.

HUNGARY

The Hungarian Customs Law, June 26, 1926, effective on July 1, 1926, (not covered in our report in 1934) authorized the Government to impose additional duties up to three times the statutory rates (or up to 100% ad valorem) for dutiable articles, and special duties for articles free of duty by way of retaliation on the products of or shipments from a country:

(1) in which the vessels or products of Hungary are subjected to less favorable treatment in any respect than that accorded to other countries; or

(2) which by unfair methods support a competition that endangers the maintenance of a Hungarian industry.

With respect to articles originating in countries which levy "unfair" duties on Hungarian products, or in any way treat the vessels or products of Hungary unfairly, the Government has the power to decree duties or treatment "comparable in effect."

INDIA

The Safeguarding of Industries Act, No. 13 of 1933, passed on April 16, 1933 (Gazette of India, April 22, 1933),1/ was intended to meet Japanese dumping, following complaints of Indian cotton mills and the hosiery industry of Bengal. The ad valorem duty on imports of cotton goods had been increased in 1922 for the same purpose. In order to make the act of 1933 effective, the British-Japanese commercial convention of 1904, under which India granted to Japan most-favored-nation treatment on tariffs, was abrogated before the Indian act was passed.

A commercial agreement entered into by the Governments of India and Japan in 1934 (statement issued by the Government of India after a meeting between the Indian and Japanese delegates held at New Delhi on January 5, 1934) included provisions under which duties might be imposed by either country on imports from the other, to correct the effects of depreciation of the Japanese yen or the Indian rupee:

Notwithstanding all other agreements that have been entered into, the Government of India shall have the right of imposing or varying from time to time special rates of Customs duty on articles, the produce or manufacture of Japan, other or higher than those levied on similar articles, the produce or manufacture of any other country,

1. Full text in our 1934 report.

at such rates as the Government of India may consider to be necessary to correct the effects of any variation of the exchange value of the yen relative to the rupee subsequent to December 31, 1933. In imposing or varying or on being requested by the Government of Japan to vary such special rates of Customs duty, the Government of India undertake to give full consideration to relevant factors which tend to raise export prices of Japanese goods, such as the purchase by Japan of raw materials in markets outside Japan and the adjustment of internal Japanese prices, and to limit such rates to what is necessary to correct the effects of the depreciation of the exchange value of the yen relative to the rupee on the duty-paid value of Japanese goods imported into India.

The Government of India further undertake that no exchange in any such rate shall be made until it has been in force for at least five weeks. Reciprocally the Government of Japan shall have the right of imposing or varying special rates of Customs duties similar to those to which reference has just been made on articles the produce or manufacture of India under similar circumstances, and subject to similar conditions provided that such right should not accrue to the Government of Japan unless the exchange value of the rupee relative to the yen shall be depreciated below the value of .732 yen.

Act No. 32 of 1934, Section 8, provided for duties in case of bounty dumping:

(1) Where any country, dependency, or colony pays or bestows, directly or indirectly, any bounty or grant upon the production therein or the exportation therefrom of any article and the article is chargeable with duty under the provisions of this act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

(2) The net amount of any such bounty as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the indentification of such articles

and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1).

Passage of this law was followed by complaints in 1935 as to dumping of German goods under the export bounty system.

IRAN
(formerly Persia)

Foreign trade in Iran became a monopoly of the State under the Trade Monopoly Act of February 25, 1931, as amended by the Law of Prohibited Goods, June 21, 1932, and the Foreign Trade Monopoly (Amendment) Act of July 10, 1932. All operations in foreign exchange are in the hands of an Exchange Control Commission under a law of March 1, 1936. The Tariff Act of May 22, 1936, provided in Article 2:

> In the case of all or part of merchandise imported from countries whose customs duties, other dues or customs formalities, cause losses to Iranian exports, the Governor is authorized to increase the rates specified in the annex tariff to the necessary degree.

IRAQ
(formerly Mesopotamia)

Customs Tariff Law No. 11 of 1933 provided for duties in retaliation for excessive duties imposed on goods exported by Iraq; and also for exchange dumping duties:

> Article 5. If at any time it shall appear to the Government that protective or retaliatory action is necessary owing to the interests of Iraq being endangered by events in a foreign country, either:
>
> (a) by reason of the collection of excessive duties or taxes on Iraqui goods, or the imposition of import or export prohibitions or restrictions, or
>
> (b) by reason of depreciation in the currency of such country which tends to disturb normal trade competition to an extent endangering Iraqui commerce;
>
> regulations may be issued subjecting the goods originating in any such country to an increase in duty, but so that the whole duty shall not exceed double the duty prescribed by the import schedule to this law, or in the case of goods not liable to duty under the said schedule, to the imposition of an ad valorem duty not exceeding 20 per cent.

ITALY

A Royal Decree Law, No. 1428, (Articles 1 and 3) dated September 28, 1933 (Gazzetta Ufficiale, November 15, 1933), provided that whenever as a result of the depreciation of a currency, the importation of certain products from the country in which the depreciation took place, causes a serious disturbance affecting the Italian market for those products, the Italian Government be authorized to raise existing import duties on such products coming from that country by a "coefficient of compensation" proportionate to the depreciation of the currency. The application of such duty increases shall be by decree, on recommendation of the Minister of Corporations, in concert with the Ministers for Finance, Agriculture and Forests. The duty increase may be suspended or revoked by Royal decree when the reason for which it was imposed no longer exists.

A decree applicable to Italian Somaliland, dated October 4, 1934 (Article 10b) authorized the Minister of Colonies, upon advice of the Colonial Governor, to impose special import duties on specified products, in addition to customs collections prescribed in the tariff, when temporary, conditions of a fiscal, commercial or economic nature render such special duties necessary.

JAPAN

Law No. 45 of 1934, for the Adjustment and Protection of Foreign Trade, was amended and extended by Law No. 1 of May 22, 1936, effective until May 1, 1940. This act provided for retaliatory measures in case of unfavorable treatment of Japanese goods, countervailing duties to offset bounties in foreign countries, and ordinary dumping duties if goods are imported at "unreasonably low prices:"1/

Article IV.

Additional duties, not exceeding in amount the value of the articles designated by ordinance, may be imposed on imports produced or manufactured in, or exported from, or transshipped through a country in which the vessels, produce, manufactures, or exports of, or shipments through Japan are subjected to less favorable treatment than that accorded to other countries.

1. Former Japanese measures in prevention of dumping, were included in the Customs Tariff Laws of 1920, 1921, 1926, discussed in our 1934 report.

Article V.

Section 1. On articles on which an export bounty is granted in foreign countries, an additional customs duty corresponding in amount to such bounty may be imposed.

Section 2. When any important industry in Japan is threatened with injury by the importation of unreasonably cheap articles or the sale of imported articles at unreasonably low prices, the Government, after investigation by the dumping investigation committee, may specify such articles by ordinance and impose upon them, during a specified period of time, additional duties not exceeding the proper value of the goods. On articles thus designated, imports of which are already in possession of a dumping seller or his agent, the additional duties may be collected from these persons, according to the provisions governing the collection of national taxes.

An import surtax of 50% ad valorem became effective July 20, 1935, on products imported from countries whose 1934 trade was excessively unfavorable to Japan, or which during the year imposed arbitrary duties on Japanese goods, including wheat, wheat flour and wheat bran; pulp for paper making; packing paper; match paper; endless felts for paper making; parts of machinery not otherwise provided for; pine, fir, cedar, and other coniferous lumber, timber and logs; and raw gluten.

Compensation or barter agreements have been an important part of the Japanese trade policy, and some of these agreements have included dumping provisions. The Japanese-Turkish Treaty of Commerce and Navigation signed on October 11, 1930, ratifications exchanged and finally effective on April 19, 1934, included in its protocol a provision to the effect that the treaty shall not be held to prevent the parties from taking anti-dumping measures. This treaty was replaced by an accord on May 27, 1937.

A commercial agreement entered into by Japan with India in 1934 stated that duties might be imposed by either country on goods imported from the other country, in case of depreciation of the Indian rupee or the Japanese yen (terms quoted in this report under India.)

LATVIA

Law of December 23, 1932, authorized the Executive to apply minimum rates on the products of any country that did not treat Lettish goods and Lettish shipping less advantageously than the commerce and shipping of any third state.

NETHERLANDS

A law dated August 5, 1933, empowered the Government to take measures of reprisal against countries with which the Netherlands has no treaty of commerce and which treat the Netherlands more unfavorably than they do other nations or in a manner contrary to the vital interests of that country. This may be effected by special import duties, quotas, or by prohibiting importation.

Law No. 260 passed on May 17, 1934, to be effective from May 20, 1934, to January 1, 1937, and extended to January 1, 1942, by Royal Decree No. 408 dated December 31, 1936, provided in Article 21 that "in order to prevent the ruin of Dutch industries by foreign measures which threaten their existence, or in order to put tariff agreements with the foreign powers into immediate effect" an Order in Council issued after consultation with the Economic Council, may impose, abrogate, raise or lower import duties for a period not exceeding one year. After the order comes into effect, a bill to approve the action of the Council must be introduced into the Second Chamber of the States General. Should this bill be withdrawn, or should either of the two Chambers reject it, the Order in Council must be withdrawn immediately.

In an exchange of notes in connection with the reciprocal trade agreement between the United States and the Netherlands, effective on February 1, 1936, provision is made for informal notice and opportunity for representations to be made, to the other government concerned, before any antidumping duties may be imposed; and no decision to impose such duty on the products of the country concerned will be made within thirty days after such informal notice has been given, unless an earlier decision is required by law.

NEW ZEALAND

The Customs Amendment Act of 1921[1/] is still in effect, though we have little information as to its application. A dumping duty imposed on pig iron from India (Gazette, September 22, 1927, p. 2920) was withdrawn on May 9, 1937.

Under the Canadian-New Zealand trade agreements, dumping duties may not be applied to Canadian goods imported into New Zealand unless prior notice has been given that imports would be injurious to New Zealand producers and manufacturers of similar goods, and no satisfactory remedial measures are put into effect within thirty days by the Canadian Government.

1. Full text in our 1934 report.

NEWFOUNDLAND

An amendment to the Revenue Act of 1925,[1/] included in the budget resolutions, introduced in the Newfoundland legislature on June 29, 1933, and provisionally effective on June 30, 1933, provided for dumping duties on imports:

> The export price of which is less than the domestic value of the goods when sold for home consumption in the country of export, even when the goods are of a class or kind not made in Newfoundland.

The Newfoundland Revenue Act of 1935, Section 10, provided for dumping duties and special duty countervailing exchange differences:

> (1) In the case of articles exported to Newfoundland, if the export or actual selling price to an importer in Newfoundland be less than the domestic value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to Newfoundland at the time of its exportation to Newfoundland there shall, in addition to the duties otherwise established, be levied, collected and paid on such article on its importation into Newfoundland, a special duty (or dumping duty) equal to the difference between the said selling price of the article for export and the said domestic value thereof for home consumption.
>
> Provided that the said special duty shall not exceed 25 per cent ad valorem in any case;
>
> Provided further that excise duties shall be disregarded in estimating the domestic value of goods for the purposes of special duty.
>
> (2) The expression "export price" or "actual selling price" in this section shall be held to mean and include the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported directly to Newfoundland.
>
> (3) If at any time it appears to the satisfaction of the Commissioner for Finance that the payment of the special duty by this section provided for is being evaded by the shipment of goods on consignment without sale prior to such shipment, the Commissioner for Finance may in any case or class of cases authorize such action as is deemed necessary to collect on such goods or any of them the same special

1. Full text in our 1934 report.

duty as if the goods had been sold to an importer in Newfoundland prior to their shipment to Newfoundland.

(4) If the full amount of any special duty of Customs is not paid on goods imported, the Customs entry thereof shall be amended and the deficiency paid upon the demand of the proper officer of Customs.

(5) The Commissioner for Finance may make such regulations as are deemed necessary for carrying out the provisions of this section and for the enforcement thereof.

(6) Such regulations may provide for the temporary exemption from special duty of any article or class of articles, when it is established to the satisfaction of the Commissioner for Finance that such articles are not sold in Newfoundland in substantial quantities and offered for sale to all purchasers on equal terms.

(7) Such regulations may also provide for the exemption from special duty of any articles when the difference between the current domestic value and the selling price thereof to the importer as aforesaid amounts only to a small percentage of its current domestic value.

(8) Whenever the currency of any non-British country has depreciated in relation to Newfoundland currency there shall be imposed upon the produce of such foreign country liable to ad valorem duty or a specific duty, or both, an additional duty or special duty equal to the difference or any part of the difference between the value of the goods computed at the current rate of exchange at date of invoice, such rate of exchange being certified by a Bank or British Consul, and the value of the goods computed at the par value of the said currency or at the proclaimed value as fixed from time to time by the Commissioner for Finance under Section 70 of the Customs Act, 1933, and all such additional or special duties shall be collected in addition to and in the same manner as all other duties now payable.

Subsections 1 to 7, of Section 10, as quoted above, were repealed by a Tariff Amendment Act, No. 7 of 1936, dated March 24, 1936. These provisions were said to be impracticable of enforcement in Newfoundland.

The Newfoundland Act to Amend and Consolidate the Law Relating to the Customs and Excise, dated March 26, 1938 (Government Gazette, April 5 and 12, 1938,) includes provisions governing valuation of goods for duty purposes, and provides for an additional levy of one-half the ordinary duty payable when properly valued in cases where the true value as determined under the law is found to exceed by

twenty per cent the value declared on the customs entry. Section 109 of the act provides also for valuation in case of imports at prices or values involving unfair competition with producers or manufacturers in the British Empire:

109. ..... (4) If at any time it appears to the Commissioner of Finance that goods of any kind are being imported into Newfoundland, either on sale or on consignment, under conditions or at prices or values as involve unfair competition with producers or manufacturers in the British Empire, including producers or manufacturers in Newfoundland, the Commissioner for Finance may authorize the Board of Customs to fix the value for duty of any such goods; and in any such case notwithstanding any other provision of this Act the value so fixed shall be deemed to be the value for duty of such goods.

PARAGUAY

Article 9 of the Tariff Act of 1925 (not covered in our report in 1934) authorized reduction or increase in duties, by as much as one-half, the imposition of new duties equivalent to 50% ad valorem, or prohibition of exports, in case of:

(1) National emergency.

(2) Economic-financial reasons.

(3) Public health, animal sanitation, and agricultural defense.

(4) The adoption in foreign countries of legal or regulatory measures which prejudice the national commerce.

(5) Excessive speculative activities by trusts or other financial combinations, abroad or within the Republic, for the purpose of changing prices to the prejudice of the Paraguayan national economy.

(6) Freight rates which are prejudicial to national commerce and economy, if such freight rates are shown not to be based upon a legitimate and moderate profit, or to have been established by means of arbitrary combinations.

Similar acts were passed in Bolivia and Ecuador in 1927.

A law dated October 26, 1935, to be effective until August 31, 1936, authorized the Executive to raise the customs duties on goods imported into Paraguay in order:

(a) to protect products of national industry against dumping;

(b) to compensate the reduction in duties caused by the official rate of exchange where these duties serve as a means of stimulation to national production;

(c) to re-establish wholly or partially importation duties reduced as a result of the application of the official rate of exchange.

The powers granted in the 1935 law are limited to manipulation of the proportion of customs duties payable "in gold", the latter to be paid at open rate in accordance with the quotation which shall be made by the Exchange office in each case.

PERU

Law No. 8463 dated November 14, 1936, effective until December 8, 1939, gave the Executive unlimited legislative authority over all phases of tariff and commercial policy. The Executive may impose by decree, without limitation, special charges such as anti-dumping duties, surtaxes, and import license fees.

POLAND

A Presidential decree dated October 27, 1933, included provisions in prevention of bounty[1] and exchange dumping. Under Article 14 the Council of Ministers may, by decree:

place additional duties on foreign goods which come from countries with depreciated currencies, as well as from countries which, by means of any kind of export bounties or grants, or by other means, support a competition economically detrimental to domestic production.

The Customs Decree Law effective on October 30, 1934, (Journal of Laws No. 84, Section 610, 1933) provided in Article 14 that:

The Council of Ministers may issue orders:

(a) imposing retaliatory duties on merchandise originating in countries in which Polish goods and means of transportation receive worse treatment than is accorded to merchandise and means of transportation from other countries.

(b) imposing additional duties on foreign merchandise originating in countries that have depreciated currencies or that employ any form of export bounty or other means of supporting competition economically harmful to domestic production.

1. Our report in 1934 discussed a Polish order, November 12, 1924, authorizing duties to offset bounty dumping.

PORTUGAL

Decree 17,823, of December 31, 1929, effective on January 6, 1930, also authorized the Government to increase import duties and navigation dues five fold or to fix rates upon duty free goods with respect to commodities or vessels originating in or coming from countries which do not concede their minimum tariff to Portugal, if such countries:

(1) levy surtaxes on imports from Portugal originating in its colonies or in foreign countries by reason of transshipment.

(2) establish import restrictions or any special measures in any way prejudicial to Portuguese exports, or establish any tariff provision especially affecting a particular article or group of articles produced in Portugal or its colonies or any other commodity which is or may be an important article of Portuguese export.

Article 3 of the same decree provided:

With respect to countries which do grant Portugal their minimum tariff but levy transshipment surtaxes as indicated above, the Government is authorized to impose additional duties of one-half the rates of the Portuguese minimum tariff on the principal commodities imported, and also to increase the navigation dues.

Article 4 of this decree (No. 17,823 of 1929) authorized the Government, whenever it has been established that any imported article enjoys in the country of origin or shipment any direct or indirect export bounty or benefits of any other form, to impose new or additional duties equal to the amount of the grants. (This was covered in our report in 1934.)

Decree Law No. 23,713, March 28, 1934 (Diario do Governo, March 28, 1934) designed to give effect to the Commercial Agreement between Portugal and France, signed at Paris on March 13, 1934, abrogated countervailing duties on cod fish imported from France or St. Pierre and Miquelon, or direct from the fisheries having been caught by French vessels. This duty (equivalent to 80 francs per 100 kilogs) had been levied under Decree No. 22,499, May 8, 1933, to offset French export bounty.

RHODESIA, SOUTHERN

The Customs and Excise Amendment Act of May 10, 1935, included provisions for additional duties in prevention of ordinary, freight,

bounty or exchange dumping. The same provisions were repeated in the Customs and Excise Amendment Act of 1937.1/

Government Notice No. 559, July 24, 1936, provided for imposition of exchange dumping duty on stationery imported into Southern Rhodesia from Japan, to be equal to the difference between the cost free on board at the port of shipment of such goods to the importer in Southern Rhodesian currency, and such cost expressed in Japanese currency in terms of Southern Rhodesian currency at the rate of 1 yen - 24d.

RUMANIA

Article 4 of the Tariff Act of July 29, 1929 (Royal Decree No. 2681) not covered in our report in 1934, authorized the Government to increase, in an exceptional and temporary manner, the customs duties on articles with minimum duties:

> when the existence of a national industry is endangered by reason of the export price of a foreign product being lower than the internal market price.

In such a case it must be shown that:

(a) the domestic industry concerned is a sufficiently important branch of the national economy;

(b) its existence appears to be really endangered;

(c) it is equipped, organized and administered according to modern technical and economic methods; and

(d) such increase in the minimum rate of the article in question will not injure some other branch of production.

The Customs Regulations of April 8, 1933 (Handelsarchiv 1933, p. 3130, Monitorul Official No. 87, April 13, 1937) provided for commercial conventions with foreign countries for the purpose of modifying customs tariff. Government royal decrees may be issued in order to make such provisions effective, and further decrees may apply surtaxes on goods imported from countries that apply discriminatory surtaxes or prohibitions on Rumanian goods. In case of depreciation of currency in a foreign country, the Rumanian customs duties on goods from that country may be increased proportionately to the depreciation:

1. Law No. 17, May 18, 1937, full text of Section 6 in Exhibit 8 herewith.

Article 28. The customs tariff is fixed by law. The Government is empowered to conclude agreements with foreign States by which the customs duties are altered. Before approval by Parliament, modified duties may be put into effect by royal decree, based on a resolution of the Council of Ministers.

The Government may by royal decree based on a resolution of the Council of Ministers, apply surtaxes or prohibitive measures on products of countries which apply discriminatory surtaxes or prohibitions on Rumanian products.

When one or more States establish prohibitions, quotas, or any other indirect restrictions on the importation of certain classes of merchandise, thereby prejudicing the exportation of Rumanian products, the Government may by royal decree based on a resolution of the Council of Ministers, adopt similar or other measures against the principal products imported from those countries into Rumania.

In case of the depreciation of the national currency the Government may by royal decree based on a resolution of the Council of Ministers, increase the customs duties in proportion to the depreciation.

These measures must be submitted to Parliament at its next session.

SALVADOR

Article 6 of Legislative Decree No. 67 of 1934 (Diario Oficial No. 143, July 3, 1934) provided for retaliatory treatment by application of either the maximum or intermediate rates to products of countries which "by laws or customs regulations endeavor to restrict imports from Salvador."

SOUTH AFRICA - BASUTOLAND, BECHUANALAND AND SWAZILAND

Exchange dumping duties have been levied on certain classes of goods imported into Basutoland, Bechuanaland and Swaziland, following much the same lines as the levies imposed oy the Union of South Africa (Cape of Good Hope, Natal, the Transvaal and Orange Free State).

SOUTH AFRICA, UNION OF

Antidumping provisions found in Chapter II of the Customs Tariff and Excise Duties Act of 1925,[1] as amended in 1931[2] (covered in our report in 1934) and again amended in 1934[3] and 1936[4] are given in full as Appendix 9 herewith.

Amendments in 1934 were of minor character. The 1936 act revised the definition of "domestic value" for the purpose of levying dumping duty, and changed provisions relating to ordinary, exchange, consignment and freight dumping. Provisions for bounty dumping were not changed.

Government Notice No. 1200 of 1933 brought into force an exchange dumping duty on the following imports from Japan: all men's and boys' hats other than tweed hats; all bottles and jars other than of the beer and mineral water types; all paints and colors other than artists' colors and dry pigments, and on matches. This duty is to be equal to the difference between the f.o.b. cost of the goods at the port of shipment to the importer in Union currency, on the one hand, and such cost expressed in the currency of the country of origin or export of the goods, computed in terms of Union currency at the rate determined by the Acting Minister of Finance, on the other hand. The rate so determined, at that time was 1 yen - 23.35 pence S. African.

Under Proclamation No. 245 of 1933, effective on November 3, 1933, a bounty or subsidy duty was placed upon clothing manufactured in Poland and imported into the Union from the United Kingdom, Irish Free State, Germany, Holland, Belgium, France, Italy, or Czechoslovakia (a similar duty was already effective on clothing imported into the Union from Poland.) The amount of the duty was equal to the amount of the bounty or subsidy granted to manufacturers in Poland on certain articles of men's clothing. The Polish bounty or subsidy was discontinued on October 31, 1933. Duties were therefore not leviable on consignments proved to have been exported from Poland subsequent to that date. (Notice No. 69 of 1934, published in Union Government Gazette, February 16, 1934.)

Proclamation No. 267 of 1933, effective on December 8, 1933, levied an "ordinary" dumping duty on cement imported into the Union from Japan (modified by Proclamation No. 212 of 1937).

Government Notice No. 1708, effective on December 15, 1933, provided for exchange dumping duties on certain goods imported from

1. Law No. 36 of 1925.
2. Law No. 49 of 1931.
3. Law No. 40 of 1934.
4. Law No. 25 of 1936.

Japan: biscuits, apples, men's knickers and smocks, neckties, braces and suspenders, wire nails, rails (including rails not exceeding 30 lbs. per running yard,) oils (vegetable or animal, hardened or hydrogenated,) bicycle tubes, and wooden boxes (empty or in shooks, except for packing fresh fruits, other than citrus, and excepting also boxes for packing dried fruits and dairy produce, eggs, and condensed milk manufactured in the Union.) The rate determined on these products was 1 yen - 23.35 pence South African.

Proclamation No. 11 of 1934, effective on January 26, 1934, provided for an "ordinary" dumping duty to be levied on sweetened and unsweetened condensed milk imported into the Union from Denmark. The amount of the duty should be equal to the difference between the "domestic value" and the "export price" of the milk. Domestic value was defined as:

> the market price at which at the time of purchase thereof by the importer such or similar sweetened or unsweetened condensed milk is offered for sale for consumption in the country from which it is exported to all purchasers in the usual wholesale quantities in the ordinary course of trade in the principal markets of such country, including the cost of packages ordinarily used in those markets, less any drawback of duty granted by the Government of the exporting country in respect of sweetened or unsweetened condensed milk on exportation, plus the extra cost of packing and packages for export, carriage to port of shipment, and all other expenses incidental to placing the condensed milk on board ship ready for exportation to the Union.

Export price was defined as:

> the price free on board at which the sweetened or unsweetened condensed milk is sold by the exporter to the importer in the Union.

South African exchange dumping duties were for a time limited to a maximum of 50% ad valorem, but this limit was removed in April 1934.

Exchange dumping duty was imposed in April 1934 (Government Notice No. 423, published in the Gazette of April 5, 1934) on certain goods imported from Japan, including: millet; dried peas, beans and lentils; knitted underwear but not including jerseys and pullovers; socks and stockings for men and boys, handkerchiefs, infants' footwear, cotton canvas, padded quilts, spades, shovels, barbed wire, wire netting, rubber tiles, aluminum sulphate, magnesium sulphate, copper sulphate, rubber water hose up to 3 inches in diameter, rubber flooring, sodium sulphate, shopping bags, and manufactured cotton waste.

A Government Notice, No. 1457, issued on October 12, 1934, contained lists of goods originating in Japan and India which were to be subject to exchange dumping duty, upon importation into the Union, including Japanese goods, as listed in Government Notice No. 1200 of 1933, and notices in December 1933 (noted above) and also: confectionery, jams and jellies, blankets, carpets and rugs, rope and twine, batteries, certain polishes, soap and soap powders, superphosphate, boots and shoes, other leather manufactures, brushes, and furniture. Indian goods on which dumping duties were then in effect included: confectionery, fruits, jams and jellies, groundnuts, pickles and other condiments, salt, sugar and sugar substitutes, blankets and rugs of certain weight and woolen content, carpets and mats, men's and boys' clothing, twine and rope, vegetable and animal oils, paints and colors, soap and soap powder, leather manufactures, and furniture.

Proclamation No. 205 of 1934, published in the Gazette on October 29, 1934, levied ordinary dumping duty on glucose imported into the Union from Belgium, Holland, Germany and the United States.

Proclamation No. 254 of 1934, published in the Gazette on December 21, 1934, levied ordinary dumping duty on steel joists, channels, equal or unequal angles, bars, flats, tees, rods (round or square,) sleepers, and rails up to 30 lbs. per running yard, and fishplates therefor, on importation into the Union from Belgium, Germany, France (Saar) and Luxemburg. Proclamation No. 65 of 1935 removed the duty from sleepers and deleted "France (Saar)" from the list of countries.

Government Notice No. 185, published in the Gazette on February 8, 1935, imposed exchange dumping duties on tennis racquets and racquet frames from Australia, and on tea, perfumery and toilet powders, mackintoshes, ladies' fancy handbags, tennis racquets and frames, from Japan. This list was extended on July 12, 1935 to include slippers of Australian and Japanese origin (Government Notice No. 977).

Proclamation No. 98 of 1935, dated May 23, 1935, imposed a bounty dumping duty on bacon and ham produced in Denmark, Holland, Latvia, Lithuania, Poland or Sweden, equal to the amount of the bounty or subsidy granted to the manufacturers in those countries, but not to exceed 50 per cent ad valorem.

Proclamation No. 218 of 1935, dated October 21, 1935, imposed ordinary dumping duty on rope imported from the Philippine Islands.

In November 1935, ordinary dumping duties were placed on certain steel products including: joists, channels, equal and unequal angles, bars, flats, tees, light rails up to 30 lbs. running yard and fishplates therefor, from France; galvanized iron sheets 1/16 in. and under, from the United Kingdom and the United States; and

black iron and steel tubes, all sizes up to and including 6⅛ in. outside diameter, fittings therefor, all tubular poles, tubular bends, tubular springs and flanges, from the United Kingdom, Poland, France, Belgium, Germany, and Czechoslovakia (Proclamations 242, 243 and 244.) Ordinary dumping duty on galvanized iron sheets from the United Kingdom was repealed on January 2, 1936. Proclamation No. 244 relating to ordinary dumping duties imposed in November 1935, on goods imported from the United Kingdom, Poland, France, Germany and Czechoslovakia was amended on January 17, 1936 (Proclamation No. 17), by the deletion of the words "Black iron and steel tubes, all sizes up to and including 6⅛ in. outside diameter, fittings therefor, all tubular poles, tubular bends, tubular springs and flanges," and substitution therefor of the following paragraphs:

> All wrought iron and wrought steel tubes or pipes, straight or bent, uncoated, coated or otherwise protected, in sizes up to and including 6⅛ inches outside diameter, except boiler tubes, boiler stay tubes, super heater tubes and tubes or pipes of galvanized or stainless steel qualities;
>
> All wrought iron, malleable iron and wrought steel tubular bends of any angle, of all qualities and sizes up to and including 6⅛ inches outside diameter, whether galvanized or otherwise;
>
> All wrought iron, malleable iron and wrought steel flanges, whether screwed or unscrewed, and whether drilled or undrilled, galvanized or otherwise, suitable for wrought iron and steel tubes, or pipes in sizes up to and including 6⅛ inches outside diameter; and all wrought iron and steel tubular poles other than galvanized where the greatest diameter of the tubular section does not exceed 7⅛ inches outside diameter.

Proclamation No. 244, as quoted above, was extended to Belgium goods in February 1936, and to goods from the United States and Canada in March 1936 (Proclamation No. 78, dated March 18, 1936;) this was again amended by Proclamation No. 265 of 1936, dated October 27, 1936, which provided that the words "welded and close-joint electrical conduit tubes" be inserted before the word "boiler" (where it occurs for the first time); and the words "except electrical conduit bends" inserted after the word "otherwise" (where it occurs for the second time). The words "malleable iron" (where they appear for the first time) were deleted.

Under Proclamation No. 232, published in the Gazette on November 8, 1935, freight dumping duties were imposed on steel joists, channels, equal and unequal angles, rails and fishplates therefor, bars, flats, tees, galvanized and black sheets, castings and tubes, imported into the Union from Belgium, Luxemburg, Germany, and France. This proclamation was amended on January 17, 1936

(Proclamation No. 17) by deletion of the word "tubes" and substitution therefor of the words:

> rods (round or square) and all wrought iron and wrought steel tubes or pipes, straight or bent, uncoated, coated or otherwise protected, in sizes up to and including 6½ inches outside diameter, except boiler tubes, boiler stay tubes, superheater tubes and tubes or pipes of galvanized or stainless steel qualities.

Proclamation No. 43, dated January 10, 1936, and effective on the same date, levied exchange dumping duty on elastic and non-elastic web belts imported into the Union from Japan. Effective on January 17, 1936, ordinary dumping duty was imposed on rubber hose imported from the United Kingdom (Proclamation No. 16 of 1936).

Proclamation No. 142 of 1936, provided for imposition after June 15th of ordinary dumping duty on black steel plates and sheets, except those exceeding 4 ft. by 12 ft. by 3/16 inch in any one dimension, imported into the Union from the United States of America.

An ordinary dumping duty was imposed on September 25, 1936, on rope (other than for drilling, driving and water borings) imported from the United Kingdom.

Under a new plan provided in Section 9 of Act No. 25 of 1936, effective in 1937, dumping duties theretofore applied on iron and steel products, were repealed, and new duties became effective, in addition to regular duties:

> (1) Special duty - If any goods of a class or kind to which the established minimum c.i.f. price applies are imported at a price less than the established minimum c.i.f. price, there shall be charged on importation, in addition to any other duties payable thereon, a special duty equal to the difference between the established minimum c.i.f. price and the actual c.i.f. price.
>
> (2) Special sales duty - If any goods of a class or kind to which the established minimum c.i.f. price is applicable are sold or offered for sale at any place in the Union for an amount which is less than the established c.i.f. price plus landing, transportation, and delivery charges and the regular duties, there shall be charged a special sales duty and the established minimum c.i.f. price plus all landing and carrying charges and the regular duties which shall be payable by the importer of the goods.

The c.i.f. prices to be fixed for such duty purposes shall be the fair average prices of these goods on the world's market, plus normal insurance and freight charges to ports of entry for the

Union; and special invoice requirements include a full description of the goods with weights, measurements and sectional specifications. Minimum c.i.f. prices, effective on March 1, 1937, were fixed for entry on certain steel products including: Joists (also known as beams,) angles, channels, and tees; flats and special shapes (viz., tapered bars, ovals, and half rounds;) rounds and squares, hexagons and triangular bars, and reinforcing rods (also known as ferroconcrete bars;) rails and fishplates; plates; galvanized corrugated sheets; galvanized flat sheets; and black sheets (also known as plain sheets).

Proclamations numbered 57 and 58 of 1937, published in the Gazette on April 9, 1937, provided that ordinary and sales dumping duties should continue to be imposed on rubber hose imported from the United States of America. The maximum duties leviable on these products were increased from 25% to 50% of the value of the goods. These proclamations canceled and replaced the duties levied on American rubber hose in 1924.

Proclamation No. 212 of 1937, effective on October 22, 1937, provided for the imposition of an ordinary dumping duty on cement (other than water-proofed Portland cement, colored cement mixture, white Portland cement, red rapid-hardened Portland cement and colored Portland cement) imported into the Union from Belgium, Canada, Denmark, Estonia, Germany, Holland, Italy, Japan, the Province of Mozambique, Norway, Sweden, the United Kingdom and Yugoslavia. This proclamation canceled Proclamations numbered 109 and 233 of 1926, 81 and 283 of 1927, 53 of 1931, and 267 of 1933, which had imposed an ordinary dumping duty on all kinds of cement imported into the Union from these countries.

Proclamation No. 8 of 1938, issued on December 30, 1937, provided for dumping duty on bacon and ham produced or manufactured in Estonia and imported into the Union, equal to the amount of the bounty or subsidy granted to the manufacturers of that country, but not to exceed 50 per cent ad valorem.

SPAIN

A decree dated March 10, 1934 (Gaceta de Madrid, March 13, 1934) prescribed measures for counteracting dumping in Spain.[1] Dumping is described (Article 1) as:

> (1) The sale in Spanish territory of foreign goods at a price lower than that ruling in the country of production, whatever be the cause of this lower price, and especially when it arises from any of the following causes:

1. Prior measures in case of bounty dumping (1906) and exchange dumping (1921 and 1931) were covered in our 1934 report.

(a) When the goods enjoy export bounties granted by the state or otherwise.

(b) When, owing to a faulty classification in the Customs Tariff, the primary materials pay on import into Spain higher duties than the finished products.

(c) When goods sold in Spain at reduced prices by means of agreements between producers, brought about by international combines, such as cartels, ententes, trusts, etc.

(2) The sale in Spanish territory of foreign goods at prices below the normal world prices, when these lower prices are due to:

(a) Production by forced or prison labour.

(b) The fact that in the production of the goods the international regulations in respect of social matters and especially as regards wages and working conditions have not been observed.

The methods which the Government may adopt, under this act, (Article 2) are:

(1) The raising of customs duties on goods in which dumping has taken place, either by creating new duties or by establishing co-efficients of increase, fixed or variable. When goods which are being dumped are classified under the same tariff number as others which are not, the Government is authorized to sub-divide the tariff heading in order that the increased duty may be applicable to dumped goods only.

(2) The establishment of protective quotas within the limits deemed necessary to defend national interests.

(3) The prohibition of import.

An increase in duty on files, certain ethylene derivatives and toothbrushes, imposed in April 1934, (Decree dated April 24, 1934, published in Gaceta de Madrid, April 26, 1934) was said to be for the purpose of correcting dumping.

A decree dated May 23, 1934 (published in Gaceta de Madrid, May 25, 1934) provided that increased customs duties were not to be applied to goods manufactured in countries which, upon decision of the Government, were declared not to be dumping such goods:

Article 1. Those countries which on the decision of the Government are declared not to be "dumping" in Spanish territory the goods in question will be exempted from the increased

tariff duties which for purposes of antidumping were agreed upon as a result of paragraph 1 of Article 2 of the Decree published in the Madrid Gazette of March 13 and from any other increases of duties which may be made in the future under similar circumstances.

Article 2. Such a declaration of exemption, so far as it refers to the application of tariff duties fixed for "antidumping" purposes, will be subject to the consideration of the Interministerial Commission of Foreign Trade, which is an indispensable preliminary to obtaining the approval of the Government.

Article 3. Goods which are subject to an "antidumping" rate of Customs duty must, if they intend to justify their right to exclusion from "antidumping" treatment when they proceed from countries not affected by the highest rates of duties, be accompanied by the corresponding certificate of origin. Unless this is done, the higher rate of payment will be applied.

Under the decree of May 23, 1934, a number of exemptions from antidumping duties were granted in 1934, on files and rasps from Great Britain, France, Switzerland, the United States of America, Czechoslovakia, Austria, and Italy; on toothbrushes from Czechoslovakia, France, the United Kingdom, Italy, Switzerland, and Japan; and on ethylene products from France, Italy and Switzerland.

TURKEY

The Treaty of Commerce and Navigation entered into by Turkey with Japan, which was signed on October 11, 1930, ratifications exchanged on March 20, 1934, and finally came into force on April 19, 1934, included in its Protocol a provision to the effect that the treaty shall not be held to prevent the parties from taking antidumping measures.1/

1. Measures to prevent bounty dumping in the Tariff Act of 1929, were covered in our 1934 report.

A P P E N D I X

EXHIBIT 1

Excerpts from the U. S. Revenue Act of September 8, 1916

39 Stat. 798

Title VIII. Unfair Competition

Sec. 800. That when used in this title the term "person" includes partnerships, corporations and associations.

Sec. 801. That it shall be unlawful for any person importing or assisting in importing any articles from any foreign country into the United States, commonly and systematically to import, sell, or cause to be imported or sold such articles within the United States at a price substantially less than the actual market value or wholesale price of such articles, at the time of exportation to the United States, in the principal markets of the country of their production, or of other foreign countries to which they are commonly exported, after adding to such market value or wholesale price, freight, duty, and other charges and expenses necessarily incident to the importation and sale thereof in the United States: Provided, That such act or acts be done with the intent of destroying or injuring an industry in the United States, or of preventing the establishment of an industry in the United States, or of restraining or monopolizing any part of trade and commerce in such articles in the United States.

Any person who violates or combines or conspires with any other person to violate this section is guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding $5,000, or imprisonment not exceeding 1 year, or both, in the discretion of the court.

Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate, this section, may sue therefor in the district court of the United States for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages sustained, and the cost of the suit, including a reasonable attorney's fee.

The foregoing provisions shall not be construed to deprive the proper State courts of jurisdiction in actions for damages thereunder.

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EXHIBIT 2

Antidumping Provisions of the U. S. Emergency Tariff Act

May 27, 1921

42 Stat. 9

Title II. Antidumping

Sec. 201. Dumping investigation: (a) That whenever the Secretary of the Treasury (hereinafter in this Act called the "Secretary"), after such investigation as he deems necessary, finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than its fair value, then he shall make such finding public to the extent he deems necessary, together with a description of the class or kind of merchandise to which it applies in such detail as may be necessary for the guidance of the appraising officers.

(b) Whenever, in the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, the appraiser or person acting as appraiser has reason to believe or suspect, from the invoice or other papers or from information presented to him, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the cost of production) he shall forthwith, under regulations prescribed by the Secretary, notify the Secretary of such fact and withhold his appraisement report to the collector as to such merchandise until the further order of the Secretary, or until the Secretary has made public a finding as provided in subdivision (a) in regard to such merchandise.

Sec. 202. Special dumping duty: (a) That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the cost of production) there shall be levied, collected, and paid, in addition to the duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

(b) If it is established to the satisfaction of the appraising officers that the amount of such difference between the purchase price and the foreign market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers for exportation to the United States in the ordinary course of trade, are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign-market value for the purposes of this section.

(c) If it is established to the satisfaction of the appraising officers that the amount of such difference between the exporter's sales price and the foreign-market value is wholly or partly due to the fact that the wholesale quantities, in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the United States in the ordinary course of trade are greater than the wholesale quantities in which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), then due allowance shall be made therefor in determining the foreign-market value for the purposes of this section.

Sec. 203. Purchase price: That for the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and plus the amount, if not included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller, in respect to the manufacture, production, or sale of the merchandise, which have been rebated, or

which have not been collected, by reason of the exportation of the merchandise to the United States.

Sec. 204. Exporter's sales price: That for the purpose of this title the exporter's sales price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributed to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation upon the manufacturer, producer, or seller in respect of the manufacture, production, or sale of the merchandise, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

Sec. 205. Foreign market value: That for the purposes of this title the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

Sec. 206. Cost of production: That for the purposes of this title the cost of production of imported merchandise shall be the sum of--

(1) The cost of materials of, and of fabrication, manipulation, or other process employed in manufacturing or producing, identical or substantially identical merchandise, at a time preceding the date of shipment of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

(2) The usual general expenses (not less than 10 per centum of such cost) in the case of identical or substantially identical merchandise;

(3) The cost of all containers and coverings, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2) equal to the profit which is ordinarily added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the same general trade as the manufacturer or producer of the particular merchandise under consideration.

Sec. 207. Exporter: That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States:

(1) If such person is the agent or principal of the exporter, manufacturer, or producer; or

(2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or

(3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person; or

(4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States,

and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

Sec. 208. Oaths and bonds on entry: That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201 and delivery of which has not been made by the collector before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before the collector, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, it shall be unlawful for the collector to deliver the merchandise until such person has made oath before the collector, under regulations prescribed by the Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given bond to the collector, under regulations prescribed by the Secretary, with sureties approved by the collector, in an amount equal to the estimated value of the merchandise, conditioned: (1) That he will report to the collector the exporter's sales price of the merchandise within thirty days after such merchandise has been sold or agreed to be sold in the United States; (2) that he will pay on demand from the collector the amount of special dumping duty, if any, imposed by this title upon such merchandise, and (3) that he will furnish to the collector such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.

Sec. 209. Duties of appraisers: That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appraiser or person acting as appraiser has made no appraisement report to the collector before such finding has been so made public, it shall be the duty of each appraiser or person acting as appraiser, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of cost of production to the contrary notwithstanding) and report to the collector the foreign market value or the cost of production, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of this title.

Sec. 210. Appeals and protests: That for the purposes of this title the determination of the appraiser or person acting as appraiser as to the foreign market value or the cost of production, as the case may be, the purchase price, and the exporter's sales price, and the action of the collector in assessing special dumping duty, shall have the same force and effect and be subject to the same right of appeal and protest, under the same conditions and

subject to the same limitations; and the general appraisers, the Board of General Appraisers, and the Court of Customs Appeals shall have the same jurisdiction, powers, and duties in connection with such appeals and protests as in the case of appeals and protests relating to customs duties under existing law.

Sec. 211. Drawbacks: That the special dumping duty imposed by this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

Sec. 212. Short title: That this title may be cited as the "Antidumping Act of 1921."

EXHIBIT 3

Excerpts from the U. S. Tariff Act of June 17, 1930

46 Stat. 590

Sec. 303. Countervailing duties: Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The Secretary of the Treasury shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated. The Secretary of the Treasury shall make all regulations he may deem necessary for the identification of such articles and merchandise and for the assessment and collection of such additional duties.

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Sec. 307. Convict-made goods-Importation prohibited: All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provision be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

"Forced labor", as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

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Part II. United States Tariff Commission

Sec. 330. Organization of the Commission: * * *

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Sec. 332. Investigations.

(a) Investigations and Reports.-It shall be the duty of the commission to investigate the administration and fiscal and industrial effects of the customs laws of this country now in force or which may be hereafter enacted, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided.

(b) Investigations of Tariff Relations.-The commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production.

(c) Investigation of Paris Economy Pact.-The commission shall have power to investigate the Paris Economy Pact and similar organizations and arrangements in Europe.

(d) Information for President and Congress.-In order that the President and the Congress may secure information and assistance, it shall be the duty of the commission to-

(1) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of the United States of articles of the United States, whenever in the opinion of the commission it is practicable;

(2) Ascertain conversion costs and costs of production in the principal growing, producing, or manufacturing centers of foreign countries of articles imported into the United States, whenever in the opinion of the commission such conversion costs or costs of production are necessary for comparison with conversion costs or costs of production in the United States and can be reasonably ascertained;

(3) Select and describe articles which are representative of the classes or kinds of articles imported into the United States and which are similar to or comparable with articles of the United States; select and describe articles of the United States similar to or comparable with such imported articles; and obtain and file samples of articles so selected, whenever the commission deems it advisable;

(4) Ascertain import costs of such representative articles so selected;

(5) Ascertain the grower's, producer's, or manufacturer's selling prices in the principal growing, producing, or manufacturing centers of the United States of the articles of the United States so selected; and

(6) Ascertain all other facts which will show the differences in or which affect competition between articles of the United States and imported articles in the principal markets of the United States.

(e) Definitions.-When used in this subdivision and in subdivision (d)--

(1) The term "article" includes any commodity, whether grown, produced, fabricated, manipulated, or manufactured;

(2) The term "import cost" means the price at which an article is freely offered for sale in the ordinary course of trade in the usual wholesale quantities for exportation to the United States plus, when not included in such price, all necessary expenses, exclusive of customs duties, of bringing such imported article to the United States.

* * * * *

Sec. 334. Cooperation with other agencies.

The commission shall in appropriate matters act in conjunction and cooperation with the Treasury Department, the Department of Commerce, the Federal Trade Commission, or any other departments, or independent establishments of the Government, and such departments and independent establishments of the Government shall cooperate

fully with the commission for the purposes of aiding and assisting in its work, and, when directed by the President, shall furnish to the commission, on its request, all records, papers, and information in their possession relating to any of the subjects of investigation by the commission and shall detail, from time to time, such officials and employees to said commission as he may direct.

* * * *

Sec. 336.1/ Equalization of costs of production.

(a) Change of classification or duties.-In order to put into force and effect the policy of Congress by this Act intended, the commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article. In the course of the investigation the commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the commission shall specify in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute.

(b) Change to American selling price.-If the commission finds upon any such investigation that such differences can not be equalized by proceeding as hereinbefore provided, it shall so state in its report to the President and shall specify therein such ad valorem rates of duty based upon the American selling price (as defined in section 402 (g)) of the domestic article, as it finds shown by the investigation to be necessary to equalize such

1. See Sec. 2, Trade Agreements Act, 1934, which states that Sec. 336 of the Act of 1930 shall not apply to any article with respect to the importation of which, a foreign trade agreement has been concluded.

differences. In no case shall the total decrease of such rates of duty exceed 50 per centum of the rates expressly fixed by statute, and no such rate shall be increased.

(c) Proclamation by the President.-The President shall by proclamation approve the rates of duty and changes in classification and in basis of value specified in any report of the commission under this section, if in his judgment such rates of duty and changes are shown by such investigation of the commission to be necessary to equalize such differences in costs of production.

(d) Effective date of rates and changes.-Commencing thirty days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification or in basis of value specified in the report of the commission shall take effect.

(e) Ascertainment of differences in costs of production.-In ascertaining under this section the differences in costs of production, the commission shall take into consideration, in so far as it finds it practicable:

(1) In the case of a domestic article.-(A) The cost of production as hereinafter in this section defined; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

(2) In the case of a foreign article.-(A) The cost of production as hereinafter in this section defined, or if the commission finds that such cost is not readily ascertainable, the commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values for a representative period and/or the average wholesale selling price for a representative period (which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets); (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association in a foreign country.

* * * * *

Sec. 337. Unfair practices in import trade.

(a) Unfair methods of competition declared unlawful.-Unfair methods of competition and unfair acts in the importation of articles into the United States, or in the sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are hereby declared unlawful, and when found by the President to exist shall be dealt with, in addition to any other provisions of law, as hereinafter provided.

(b) Investigations of violations by commission.-To assist the President in making any decisions under this section the commission is hereby authorized to investigate any alleged violation hereof on complaint under oath or upon its initiative.

(c) Hearings and review.-The commission shall make such investigation under and in accordance with such rules as it may promulgate and give such notice and afford such hearing, and when deemed proper by the commission such rehearing, with opportunity to offer evidence, oral or written, as it may deem sufficient for a full presentation of the facts involved in such investigation. The testimony in every such investigation shall be reduced to writing, and a transcript thereof with the findings and recommendation of the commission shall be the official record of the proceedings and findings in the case, and in any case where the findings in such investigation show a violation of this section, a copy of the findings shall be promptly mailed or delivered to the importer or consignee of such articles. Such findings, if supported by evidence, shall be conclusive, except that a rehearing may be granted by the commission and except that, within such time after said findings are made and in such manner as appeals may be taken from decisions of the United States Customs Court, an appeal may be taken from said findings upon a question or questions of law only to the United States Court of Customs and Patent Appeals by the importer or consignee of such articles. If it shall be shown to the satisfaction of said court that further evidence should be taken, and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the commission, said court may order such additional evidence to be taken before the commission in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts or make new findings by reason of additional evidence, which, if supported by evidence, shall be conclusive as to the facts except that within such time and in such manner an appeal may be taken as aforesaid upon a question or questions of law only. The judgment of said court shall be final.

(d) Transmission of findings to President.-The final findings of the commission shall be transmitted with the record to the President.

(e) Exclusion of articles from entry.-Whenever the existence of any such unfair method or act shall be established to the satisfaction of the President he shall direct that the articles concerned in such unfair methods or acts, imported by any person violating the provisions of this Act, shall be excluded from entry into the United States, and upon information of such action by the President, the Secretary of the Treasury shall, through the proper officers, refuse such entry. The decision of the President shall be conclusive.

* * * * *

Sec. 338. Discrimination by foreign countries.

(a) Additional duties.-The President when he finds that the public interest will be served thereby shall by proclamation specify and declare new or additional duties as hereinafter provided upon articles wholly or in part the growth or product of, or imported in a vessel of, any foreign country whenever he shall find as a fact that such country-

(1) Imposes, directly or indirectly, upon the disposition in or transportation in transit through or reexportation from such country of any article wholly or in part the growth or product of the United States any unreasonable charge, exaction, regulation, or limitation which is not equally enforced upon the like articles of every foreign country; or

(2) Discriminates in fact against the commerce of the United States, directly or indirectly, by law or administrative regulation or practice, by or in respect to any customs, tonnage, or port duty, fee, charge, exaction, classification, regulation, condition, restriction, or prohibition, in such manner as to place the commerce of the United States at a disadvantage compared with the commerce of any foreign country.

(b) Exclusion from importation.-If at any time the President shall find it to be a fact that any foreign country has not only discriminated against the commerce of the United States, as aforesaid, but has, after the issuance of a proclamation as authorized in subdivision (a) of this section, maintained, or increased its said discriminations against the commerce of the United States, the President is hereby authorized, if he deems it consistent with the interests of the United States, to issue a further proclamation directing that such products of said country or such articles imported in its vessels as he shall deem consistent with the public interests shall be excluded from importation into the United States.

(c) Application of proclamation.-Any proclamation issued by the President under the authority of this section shall, if he deems it consistent with the interests of the United States, extend to the whole of any foreign country or may be confined to any subdivision or subdivisions thereof; and the President shall, whenever he deems the public interests require, suspend, revoke, supplement, or amend any such proclamation.

(d) Duties to offset commercial disadvantages.-Whenever the President shall find as a fact that any foreign country places any burden or disadvantage upon the commerce of the United States by any of the unequal impositions or discriminations aforesaid, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty as he shall determine will offset such burden or disadvantage, not to exceed 50 per centum ad valorem or its equivalent, on any products of, or on articles imported in a vessel of, such foreign country; and thirty days after the date of such proclamation there shall be levied, collected, and paid upon the articles enumerated in such proclamation when imported into the United States from such foreign country such new or additional rate or rates of duty; or, in case of articles declared subject to exclusion from importation into the United States under the provisions of subdivision (b) of this section, such articles shall be excluded from importation.

(e) Duties to offset benefits to third country.-Whenever the President shall find as a fact that any foreign country imposes any unequal imposition or discrimination as aforesaid upon the commerce of the United States, or that any benefits accrue or are likely to accrue to any industry in any foreign country by reason of any such imposition or discrimination imposed by any foreign country other than the foreign country in which such industry is located, and whenever the President shall determine that any new or additional rate or rates of duty or any prohibition hereinbefore provided for do not effectively remove such imposition or discrimination and that any benefits from any such imposition or discrimination accrue or are likely to accrue to any industry in any foreign country, he shall, when he finds that the public interest will be served thereby, by proclamation specify and declare such new or additional rate or rates of duty upon the articles wholly or in part the growth or product of any such industry as he shall determine will offset such benefits, not to exceed 50 per centum ad valorem or its equivalent, upon importation from any foreign country into the United States of such articles; and on and after thirty days after the date of any such proclamation such new or additional rate or rates of duty so specified and declared in such proclamation shall be levied, collected, and paid upon such articles.

(f) Forfeiture of articles.-All articles imported contrary to the provisions of this section shall be forfeited to the United States and shall be liable to be seized, prosecuted, and

condemned in like manner and under the same regulations, restrictions, and provisions as may from time to time be established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws. Whenever the provisions of this Act shall be applicable to importations into the United States of articles wholly or in part the growth or product of any foreign country, they shall be applicable thereto whether such articles are imported directly or indirectly.

(g) Ascertainment by commission of discriminations.-It shall be the duty of the commission to ascertain and at all times to be informed whether any of the discriminations against the commerce of the United States enumerated in subdivisions (a), (b), and (e) of this section are practiced by any country; and if and when such discriminatory acts are disclosed, it shall be the duty of the commission to bring the matter to the attention of the President, together with recommendations.

(h) Rules and regulations of Secretary of Treasury.-The Secretary of the Treasury with the approval of the President shall make such rules and regulations as are necessary for the execution of such proclamations as the President may issue in accordance with the provisions of this section.

(i) Definition.-When used in this section, the term "foreign country" means any empire, country, dominion, colony or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions), within which separate tariff rates or separate regulations of commerce are enforced.

EXHIBIT 4

Excerpts from the U. S. Agricultural Adjustment Act of 1933[1]/

as amended in 1935[2]/ further amended by the Soil

Conservation and Domestic Allotment Act of 1936[3]/ and

affirmed by the Agricultural Marketing Agreement Act of 1937[4]/

Imports

Sec. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which any program is in operation, under this title or The Soil Conservation and Domestic Allotment Act, as amended, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which any program is in operation, under this title or the Soil Conservation and Domestic Allotment Act, as amended: Provided, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

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1. Sec. 22, Public 10, 73d Cong., May 12, 1933.
2. Sec. 31, Public 320, 74th Cong., August 24, 1935.
3. Sec. 5, Public 461, 74th Cong., February 29, 1936.
4. Public 137, 75th Cong., June 3, 1937.

(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

(d) Any decision of the President as to facts under this section shall be final.

(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section.

Executive Order Prescribing Regulations Governing Investigations under Sec. 22 of the Agricultural Adjustment Act, as amended.

November 23, 1935.

By virtue of and pursuant to the authority vested in me by the Agricultural Adjustment Act of May 12, 1933 (48 Stat. 31), as amended by section 31 of the act of August 24, 1935, Public, No. 320 (74th Cong.), I hereby prescribe the following regulations governing investigations to be made under section 22 of the said act, as amended:

I. The Secretary of Agriculture, proceeding upon his own motion or upon a request from any interested party, is hereby empowered to make such preliminary investigations with reference to matters within the scope of section 22 of the said act, as amended, as he may deem advisable.

II. The Secretary of Agriculture is hereby authorized to prescribe the manner in which requests for action under the said section 22 shall be submitted by interested parties.

III. With reference to any preliminary investigation provided for in paragraph I of this order, the Secretary of Agriculture shall secure such information from interested parties as he may deem to be desirable and, on the basis of the information so obtained and such other information as may be available, shall determine whether the showing made or the facts disclosed warrant further investigation. The Secretary of Agriculture shall thereupon make his recommendations to the President in order that, in the light of such recommendations, the President may direct that no further action be taken, or may cause the United States Tariff Commission to make an immediate investigation as provided for in the said section 22.

IV. When so directed by the President, the United States Tariff Commission shall make an immediate investigation and shall give precedence thereto. Such investigations shall be governed by the following regulations:

(1) Public notice.-(a) Notice of the hearing in every such investigation shall be given by posting a copy of the notice or announcement thereof at the principal office of the Commission in Washington, D. C., and at its office in New York City. A copy of the notice will also be sent to press associations, to trade and similar organizations of producers, and to importers known to the Commission to have an interest in the subject matter of the investigation.

(2) Hearings.-(a) Hearings shall be conducted by one or more Commissioners or such member or members of the staff as the Commission shall designate. The Agricultural Adjustment Administrator may have a representative or representatives at each hearing, who shall have the privilege of examining witnesses.

(b) Any interested person may appear at the hearing, either in person or by representative, and produce evidence relevant and material to the matter or matters involved in the investigation.

(c) Witnesses shall be sworn. No documentary evidence, except such as is legally subject to judicial notice, shall be accepted unless verified under oath by the person offering it as a true statement of the facts contained therein.

(d) Evidence, oral or written, submitted in hearings, shall, upon the order of the Commission, be subject to verification from the books, papers, and records of the parties interested and from any other available sources.

(e) All hearings shall be stenographically reported. Copies of the transcript of the minutes of such hearings may be purchased from the official reporter.

(f) The Commission may continue any hearings or order such rehearing as it may deem necessary for a full presentation of the facts involved in any investigation.

(3) Confidential information.-(a) If witnesses desire to submit confidential information which the Commission considers to be of that character, the Commission shall accept such submission and respect its confidential character.

(b) The Commission shall make such investigation in addition to the hearing as it deems to be necessary for a full disclosure and presentation of the facts. In such investigation the Commission may invoke all the powers granted to it under part 2, title III, of the Tariff Act of 1930.

(4) Reports.-(a) After the completion of its investigation the Tariff Commission shall make findings of fact, which shall include a statement of the steps taken in the investigation, and it shall transmit to the President a report of such findings and its recommendations based thereon, together with a transcript of the evidence submitted at the hearing, and it shall also transmit a copy of such report to the Secretary of Agriculture.

EXHIBIT 5

U. S. Trade Agreements Act

Public No. 316, 73d Congress

June 12, 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Tariff Act of 1930 is amended by adding at the end of title III the following:

Part III - Promotion of Foreign Trade

Sec. 350. (a) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time -

(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof; and

(2) To proclaim such modifications of existing duties and other import restrictions, or such additional import restrictions, or such continuance, and for such minimum periods, of existing customs or excise treatment of any article covered by foreign trade agreements, as are required or appropriate to carry out any foreign trade agreement that the President has entered into hereunder. No proclamation shall be made increasing or decreasing by more than 50 per centum any existing rate of duty or transferring any article between the dutiable and free lists. The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly; Provided, That the President may suspend the application to articles the growth, produce, or manufacture of any country

because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation. The President may at any time terminate any such proclamation in whole or in part.

(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba: Provided, That the duties payable on such an article shall in no case be increased or decreased by more than 50 per centum of the duties now payable thereon.

(c) As used in this section, the term "duties and other import restrictions" includes (1) rate and form of import duties and classification of articles, and (2) limitations, prohibitions, charges, and exactions other than duties, imposed on importation or imposed for the regulation of imports.

Sec. 2 (a) Subparagraph (d) of paragraph 369, the last sentence of paragraph 1402, and the provisos to paragraphs 371, 401, 1650, 1687, and 1803 (1) of the Tariff Act of 1930 are repealed. The provisions of sections 336 and 516 (b) of the Tariff Act of 1930 shall not apply to any article with respect to the importation of which into the United States a foreign-trade agreement has been concluded pursuant to this act, or to any provision of any such agreement. The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this Act to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

(b) Every foreign trade agreement concluded pursuant to this act shall be subject to termination, upon due notice to the foreign government concerned, at the end of not more than three years from the date on which the agreement comes into force, and, if not then terminated, shall be subject to termination thereafter upon not more than six months' notice.

(c) The authority of the President to enter into foreign trade agreements under section 1 of this Act shall terminate on the expiration of three years from the date of the enactment of this Act.

Sec. 3. Nothing in this Act shall be construed to give any authority to cancel or reduce, in any manner, any of the indebtedness of any foreign country to the United States.

Sec. 4. Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this Act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce, and from such other sources as he may deem appropriate.

Joint Resolution to Extend the Authority of the President under Section 350 of the Tariff Act of 1930, as amended

March 1, 1937

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period during which the President is authorized to enter into foreign-trade agreements under section 350 of the Tariff Act of 1930, as amended by the act (Public No. 316, 73d Cong.) approved June 12, 1934, as hereby extended for a further period of 3 years from June 12, 1937.

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EXHIBIT 6

Australian Customs Tariff (Industries Preservation) Act of 1921

as amended in 1922, 1933, and 1936[1]/

1. Short title: This Act may be cited as the Customs Tariff (Industries Preservation) Act, 1921, 1922.

2. Incorporation: The Customs Act, 1901-1920, shall be incorporated and read as one with this Act.

3. Definitions: In this Act, except where otherwise clearly intended -

"Ballast rates" means special rates chargeable on any goods shipped as ballast or stiffening for any vessel, and being lower than the rates chargeable on those goods when carried as ordinary cargo;

"Subsidized ship" means any ship to the master, owners, agents, or charterers of which there is paid any Government or other subsidy, bonus, or bounty (not being payment for the actual carriage of mail matter at rates which the Minister considers to be fair and reasonable) which will permit of goods being carried at a rate of freight lower than would be the case if such subsidy, bonus, or bounty were not paid;

"The export price" of goods exported to Australia means the price at which the goods are sold by the exporter to the importer in Australia (including the free-on-board charges in the country of export);

"The fair market value" of goods means the fair market value of the goods, or of goods of the same class or kind, sold in the country of export in relation to which the expression is used, for home consumption in the usual and ordinary course of trade plus free-on-board charges in that country, but not including any excise duties payable in that country;

"The tariff" means the customs tariff in force for the time being; and

"The Tariff Board" or "the Board" means the Tariff Board appointed under the Tariff Board Act, 1921.

1. Law No. 28 of 1921, No. 20 of 1922, No. 30 of 1933, and No. 82 of 1936.

4. Dumping duty: (1) If the Minister is satisfied, after enquiry and report by the Tariff Board, that goods exported to Australia, which are of a class or kind produced or manufactured in Australia, have been or are being sold to an importer in Australia at an export price which is less than the fair market value of the goods at the time of shipment, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the Gazette specifying the goods as to which he is so satisfied.

(2) Upon the publication of the notice there shall be charged, collected, and paid to the use of the King for the purposes of the Commonwealth, on those goods imported into Australia a special duty (in this section referred to as the "dumping duty").

(3) The amount of the dumping duty in each case shall be the sum which represents the difference between the fair market value of the goods at the time of shipment and the export price:

Provided, That where the importer satisfies the Minister that he purchased the goods within six months prior to the time of shipment and that after the date of purchase and prior to the date of shipment, the fair market value of the goods had increased, the fair market value to be taken for the purposes of this section shall be the fair market value at the date of purchase.

(4) The regulations may provide for the exemption of the following goods from the dumping duty:

(a) Any goods or class of goods in respect of which the Minister is satisfied after report by the Tariff Board that the goods or classes of goods are not made in Australia in substantial quantities and offered for sale to all purchasers on equal terms under like conditions having regard to the custom and usage of trade;

(b) Any goods in respect of which the difference between the fair market value and the export price does not exceed 5 per cent of the fair market value;

(c) Any goods in respect of which the difference between the fair market value and the export price does not exceed 10 per cent of the fair market value, if the Minister is satisfied, after report by the Tariff Board, that the exemption would not be detrimental to any Australian industry; and

(d) Goods, being articles of merchandise, for use bona fide as samples for the sale of similar goods.

5. Dumping below cost duty: (1) If the Minister is satisfied, after enquiry and report by the Tariff Board, that goods produced or manufactured outside Australia have been or are being sold to an importer in Australia at an export price which is less than a

reasonable price, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the Gazette specifying the goods as to which he is so satisfied.

(2) Upon the publication of the notice there shall be charged, collected, and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumping below cost duty").

(3) The amount of the dumping below cost duty in each case shall be the sum which represents the difference between a reasonable price of the goods at the time of shipment and the export price of the goods.

(4) In this section "a reasonable price" means such a price as represents the cost of production of the goods, plus such addition, not exceeding 20 per centum, as is determined by the Minister after enquiry and report by the Tariff Board, plus free on board charges.

(5) In the absence of satisfactory evidence as to the cost of production the Minister may, after report by the Tariff Board, fix such amount as he thinks fit as the cost of production, and the amount so fixed shall, for the purposes of this section, be deemed to be the cost of production.

6. Provisions in case of goods on consignment: (1) If the Minister is satisfied, after enquiry and report by the Tariff Board, that goods have been or are being consigned to Australia for sale, and that they may be sold at less than a reasonable selling price, and that detriment may thereby result to an Australian industry, the Minister may publish a notice in the Gazette specifying the goods as to which he is so satisfied.

(2) Upon the publication of the notice in the Gazette there shall be charged, collected, and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumping consignment duty").

(3) The amount of the dumping consignment duty in each case shall be the sum which represents the difference between the wholesale selling price in Australia and a reasonable selling price.

(4) In this section "a reasonable selling price" means the price ascertained upon the following basis, namely: To the fair market value of the goods there shall be added the freight, insurance, landing, and other charges together with the amount of duty payable under the Customs Tariff, together with such addition, not exceeding 15 per centum on the aggregate of all the items mentioned, as is determined by the Minister after enquiry and report by the Tariff Board.

(5) If the evidence of the fair market value is, in the opinion of the Minister, insufficient, the Minister may, for the purposes of the last preceding subsection, substitute in lieu thereof the ascertained cost of production plus such addition, not exceeding 20 per centum of such cost, as is determined by the Minister after enquiry and report by the Tariff Board, or, if the cost of production is not ascertainable, the cost of production estimated from such information as is available, plus such addition, not exceeding 25 per centum of such estimated cost, as is determined by the Minister after enquiry and report by the Tariff Board.

7. Dumping freight duty: (1) If the Minister is satisfied, after enquiry and report by the Tariff Board, that any goods exported to Australia, of a class or kind produced or manufactured in Australia, have been or are being carried -

(a) in subsidized ships at rates of freight lower than the normal rate of freight; or[1]

(b) at ballast rates of freight, being rates lower than the normal rate of freight; or[1]

(c) freight free;

or that, by reason of any circumstance, including the granting of rebates, refunds, or other allowances, the amount or the net amount of freight paid or payable on goods exported to Australia, of a class or kind produced or manufactured in Australia, is lower than the amount of freight which would have been or would be payable at the normal rate of freight, and that in any such case detriment may thereby result to an Australian industry, the Minister may publish a notice in the Gazette specifying the goods as to which he is so satisfied;[1]

(2) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia a special duty (in this section referred to as "the dumping freight duty").

(3) The dumping freight duty shall be:[1]

(a) In the case of goods which have been or are being carried freight free - the amount which would have been or would be payable as freight on those goods if they had been or were carried at the normal rate of freight; and

(b) In the case of any other goods - such amount as, in the opinion of the Minister, is equal to the sum by which the freight

1. as amended, 1936.

which would have been or would be payable on those goods if they had been or were carried at the normal rate of freight exceeds the freight or the net freight paid or payable on those goods.

(4) The normal rate of freight in respect of any goods to which this section applies shall, for the purposes of this section, be such as is determined by the Minister, but not exceeding the highest rate of freight payable, at the date of shipment of those goods, on similar goods carried by general cargo vessels which, in the opinion of the Minister, trade regularly with Australia.

(5) If any dispute arises as to the rate of freight in respect of any goods, or the amount of any rebate, refund or other allowance in respect of freight on goods to which this section applies, that rate or that amount shall, for purposes of sub-section (3) of this section, be such rate or amount as the Minister determines.

8. Dumping exchange duty:[1] (1) If the Minister is satisfied, after enquiry and report by the Tariff Board, that the exchange value of the currency of the country of origin of any goods has depreciated in relation to Australian currency, and that by reason of such depreciation goods have been or are being sold to an importer in Australia at prices which will be detrimental to an Australian industry, the Minister may publish a notice in the "Gazette" specifying the country as to the exchange value of which he is so satisfied, and the goods originated in that country to which in his opinion the provisions of this section should apply.

(2) Upon the publication of the notice, there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on all goods specified in the notice and produced or manufactured in the country specified therein, a special duty ascertained as follows:

(a) From the nominal par value in sterling of a unit of the currency of the country of origin of the goods there shall be deducted the value in Australian currency of the same unit at the date of exportation of the goods;

(b) The amount ascertained under the last preceding paragraph shall be divided by the value in Australian currency of a unit of the currency of the country of origin of the goods at the date of exportation of the goods; and

(c) The figure ascertained under the last preceding paragraph shall be multiplied by the value of the goods assessed in accordance with the Customs Act, 1901-30.

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1. as amended, 1933.

9. Dumping preference duty: (1) If the Minister is satisfied, after enquiry and report by the Tariff Board, that, by reason of the depreciation in exchange value of the currency of the country of origin or export of any goods, in comparison with the currency of the United Kingdom, goods exported to Australia, which have been produced or manufactured in any country other than the United Kingdom, and are of a class or kind produced or manufactured in the United Kingdom, have been or are being sold to an importer in Australia at an export price which is less than the fair market value of goods of like character or quality made in the United Kingdom, when sold for home consumption therein in the usual and ordinary trade course, plus the ordinary free-on-board charges therein (in this section referred to as "the fair market value in the United Kingdom"), the Minister may publish a notice in the "Gazette" specifying the goods as to which he is so satisfied.

(2) Upon the publication of the notice, there shall be charged, collected, and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumping preference duty").

(3) The amount of the dumping preference duty in each case shall be the sum which represents the difference between the fair market value in the United Kingdom and the export price.

(4) Notwithstanding anything contained in the Customs Act 1901-20, the value for duty under that Act of goods dutiable under this section shall be the value ascertained in accordance with the Act plus the dumping preference duty imposed under this section.

10. Dumped materials duty: (1) If the Minister is satisfied, after enquiry and report by the Tariff Board, that goods have been or are being sold to an importer in Australia, which were manufactured wholly or in part from material supplied from any country whose currency has depreciated by comparison with the currency of the country to which the material was supplied, and that the manufactured goods have been or are being sold to an importer in Australia at a price below the price at which the same goods could have been manufactured in the country of manufacture if made from material of such country of manufacture, and allowing for a reasonable profit, the Minister may publish a notice in the Gazette specifying the goods as to which he is so satisfied.

(2) Upon the publication of the notice there shall be charged, collected, and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumped materials duty").

(3) The amount of the dumped materials duty shall be the sum which represents the difference between the price at which the goods were or are being sold to Australia, and the price representing what

would have been the fair market value of the same goods if the goods had been manufactured wholly in the country of export from materials of that country.

11. Evasion of duty under sections 9 and 10 by consignment: If the Minister is satisfied, after enquiry and report by the Tariff Board that the duty imposed by either of the last three preceding sections is likely to be evaded by the consignment of goods to Australia for sale, he may direct that there shall be payable on any goods specified by him, by notice published in the Gazette, which have been consigned to Australia for sale, a duty in an amount which will, in his opinion, assure that the goods will not be sold in Australia at less than a reasonable selling price as defined in section VI, and duty in that amount shall thereupon be charged, collected, and paid to the King, for the purposes of the Commonwealth, on such goods.

12. Duties to be collected separately: The various duties imposed by this Act shall be separately charged, notwithstanding that more duties than one may apply to any particular goods:

Provided, That where duty has been imposed, under section 8 and section 9 of this Act, upon any particular goods, duty shall be imposed upon those goods under the other of those sections.

12A.[1] Notwithstanding anything contained in this Act or the Customs Act 1901-1935, where any amount of duty payable under section four, five or seven of this Act is calculated in any currency other than Australian currency, the equivalent amount in Australian currency of the amount so calculated shall be ascertained according to a fair rate of exchange, to be declared in case of doubt by the Minister, and the amount in Australian currency so ascertained shall be the amount of duty to be paid.

13. Power to specify goods: The powers given by this Act to the Minister to publish notices specifying goods shall extend to the publication of notices specifying goods of any particular class or kind or to any particular shipment of goods or to goods exported by any particular exporter or to goods specified in such other manner as the Minister thinks fit, and, if the notice so provides, to all or any goods entered for home consumption on or before the date of issue of the notice as well as to goods entered for home consumption after that date.

14. Power to revoke notices: (1) Any notice published in pursuance of this Act may be revoked at any time if the Minister is satisfied that the conditions which occasioned the publication of the notice no longer exist, and that it is desirable that the notice should be revoked.

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1. Sec. 12A added in 1936.

(2) Upon the revocation of the notice, the duties charged in consequence of the publication of the notice shall no longer be collected.

15. Special duties to be additional to ordinary duties: The special duties payable under this Act shall be in addition to such other duties (if any) as are payable under the tariff.

16. Special duties may be collected by post entry: Where at the time of the entry for home consumption of any goods dutiable under this Act, the duty payable under this Act was not paid, the Collector may at any time call upon the importer to pay the duty, and the importer shall pay the duty accordingly.

17. Regulations: The Governor General may make regulations, not inconsistent with this Act, for carrying out or giving effect to this Act.

EXHIBIT 7

Antidumping Provisions of the Canadian Customs Tariff Act

as amended in 1934, 1936 and 1937[1]/

Section 6. (1) In the case of articles exported to Canada of a class or kind made or produced in Canada, if the export or actual selling price to an importer in Canada is less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to Canada at the time of its exportation to Canada, or is less than the fair market value or value for duty thereof as determined under the provisions of section thirty-six of the Customs Act or is less than the value for duty thereof as determined by the Minister under the provisions of paragraphs (a) and (e) of section forty-one of the Customs Act, or is less than the fair market value thereof as fixed under the provisions of section forty-three of the Customs Act, there shall, in addition to the duties otherwise established, be levied, collected and paid on such article, on its importation into Canada, a special or dumping duty, equal to the difference between the said selling price of the article for export and the said fair market value thereof or value for duty thereof; and such special or dumping duty shall be levied, collected and paid on such article although it is not otherwise dutiable.

Provided that when it is established that any articles though of a class or kind made or produced in Canada are not offered for sale to the ordinary agencies of wholesale or retail distribution or are not offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade, such articles may be exempted from special or dumping duty.

Provided that the said special duty shall not exceed fifty per centum ad valorem in any case, and the following goods shall be exempt from such special duty, namely:-

Goods of a class subject to duty under the Excise Act.

(2) Excise duties or excise taxes shall be disregarded in estimating the market value of goods for the purposes of special duty when the goods are entitled to entry under the British Preferential Tariff, Intermediate Tariff, or any tariff more favourable than the General Tariff.

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1. Act of July 3, 1934, Geo. V. Chapt. 48.
Act of June 23, 1936, 1 Edw. VIII. Chapt. 31.
Act of April 10, 1937, 1 Geo. VI. Chapt. 24.

(2A) The Governor in Council, whenever it is deemed expedient to do so, may order that import, excise or other duties and taxes, in whole or in part, shall be disregarded in estimating the market value for the purpose of special duty of goods of any kind imported into Canada from any specified country.

(3) Customs duties of the United Kingdom shall be disregarded in estimating the market value of wines for the purposes of special duty when the same are entitled to entry under the Intermediate Tariff or any tariff more favourable than the General Tariff and are bottled in bond in the United Kingdom and imported direct therefrom.

(4) "Export price" or "selling price" in this section shall be held to mean and include the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported directly to Canada.

(5) If at any time it appears to the satisfaction of the Minister that the payment of the special duty by this section provided for is being evaded by the shipment of goods on consignment without sale prior to such shipment, the Minister may in any case or class of cases authorize such action as is deemed necessary to collect on such goods or any of them the same special duty as if the goods had been sold to an importer in Canada prior to their shipment to Canada.

(6) If at any time it appears to the satisfaction of the Minister that any person owning or controlling or interested in a business in canada and also in any other country, or any person carrying on a business in any other country and owning or controlling or interested in a business operating in Canada, and by reason thereof is enabled to import goods for further manufacture or assembling or for resale, and while complying with the legal requirements on importation disposes of such imported goods, whether in the form as imported or as further processed, assembled or manufactured, at prices below the duty paid value thereof as entered at Customs plus or including all charges upon the goods after shipment from the place whence exported directly to Canada, including sales, distribution and advertising costs, and plus, if any, the cost of processing, assembling or further manufacturing in Canada, the Minister may declare that goods of such class or kind were and are on importation subject to an additional special or dumping duty not exceeding fifty per cent and authorize such action as is deemed necessary for the collection thereof.

(7) If the full amount of any special duty of Customs as herein provided has not been paid on goods imported, the Customs entry thereof shall be amended and the deficiency paid upon the demand of the Collector.

(8) The Minister may make such regulations as are deemed necessary for carrying out the provisions of this section and for its enforcement.

(9) (a) Notwithstanding the provisions of any other law, the Governor in Council may, from time to time and as occasion requires, order and direct, subject to such exceptions as may be made, what shall be the rate of exchange fixed for any currency in computing the value for duty of goods imported into Canada from any place or country the currency of which is depreciated, and in case a sum in Canadian currency less than the invoice value of the goods in the currency of the place or country of export, computed at the rate of exchange so ordered, be paid for the goods, the actual selling price of the goods to the importer shall be regarded as less than the fair market value of the goods when sold for home consumption, and the provisions of this section shall apply and special or dumping duty shall apply equal to the difference between the value of the invoice computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council, and the value of such invoice, computed at the rate of exchange for duty so ordered as aforesaid, or may be less than such difference as the Governor in Council may from time to time order and direct; and the Governor in Council may order and direct that in all cases of sales or consignments of goods imported into Canada, where the importer owns, controls or is interested in the business of the exporter, or the exporter owns, controls or is interested in the business of the importer, or the importer and exporter operate under a controlling or holding company, notwithstanding the expressed terms of the sale or consignment, the transaction shall be regarded as a sale and the actual selling price to the purchaser in Canada shall be taken to be the value of the goods in the currency of the place or country of export converted into Canadian currency at the current rate of exchange, or at the average current rate from time to time fixed by order of the Governor in Council, and shall be regarded as less than the fair market value of the goods when sold for home consumption, and the provisions of this section shall apply and special or dumping duty shall be deemed to apply equal to the difference between the value of the invoice computed at the current rate of exchange or at the average current rate from time to time fixed by order of the Governor in Council, and the value of such invoice computed at the rate of exchange for duty so ordered as aforesaid, or may be less than such difference as the Governor in Council may from time to time order and direct.

(b) Any Order in Council made hereunder may be varied, extended or revoked at any time by the Governor in Council.

(c) This subsection shall be deemed to have had effect from and after the first day of September 19.1. 1931, c. 30, s. 6; 1933, c. 37, s. 1.

(10) For the purposes of this Act articles shall not be deemed to be of a class or kind made or produced in Canada unless so made or produced in substantial quantities; and the Governor in Council may by Order in Council provide that such quantities, to be substantial,

shall be sufficient to supply a certain percentage of the normal Canadian consumption and may in such Order fix such percentage.

(11) (a) Notwithstanding the provisions of any other law, the Governor in Council may, from time to time and as occasion requires, and without having regard to the requirements of section fifty-five of the Customs Act, order and direct, subject to such exceptions as may be made, what shall be the rate of exchange fixed for any currency in computing the value for duty of goods imported into Canada from any place or country, the currency of which is appreciated in terms of the Canadian dollar.

(b) In cases where, under the power granted by this subsection, the Governor in Council shall have fixed the rate of exchange for any currency in computing the value for duty of goods imported into Canada, special or dumping duty shall not apply when the export or actual selling price is equal to or greater than the value for duty so computed and where the same is less than the value for duty so computed, special or dumping duty applicable shall not be greater than the difference between the said export or actual selling price and the value for duty so computed.

General Regulations under Section 6 of the Customs Tariff[1]

1. Order in Council P.C. 1618, 2nd July 1936 (Memorandum D No. 33 Supplement B). Articles shall not be deemed to be of a class or kind made or produced in Canada unless a quantity sufficient to supply ten per centum of the normal Canadian consumption of such article is so made or produced.

2. Bona fide samples admitted without special duty.

Articles of merchandise for use bona fide as samples for sale of similar goods are to be admitted without special duty (subject, however, to ordinary duties as heretofore).

3. Advance in market value after purchase of goods by importer not subject to special duty.

The amount of any advance in the market value of goods between the time of their purchase by the importer and the date of their exportation to Canada shall not be subject to special or dumping duty, provided the purchase agreement firmly establishes the price and quantity, and final shipment is made within a period in accordance with usual home market practice, and further provided that the actual date of purchase is established to the satisfaction of the Collector by contracts or other sufficient documentary evidence produced for his inspection and attested to.

Under this regulation, increases in the rate of exchange between the date of purchase and date of shipment may be considered as effecting an advance in the market value of goods.

Note.-In respect of goods subject to an ad valorem duty, the ordinary duty shall be collected on the fair market value of the goods at the time and at the exchange rate on the date of their direct exportation to Canada under the provisions of the Customs Act.

4. Cash discounts.

Special or dumping duty will not apply on account of the allowance to the purchaser in Canada of a cash discount similar in percentage and terms with that allowed generally by the exporter on home market sales.

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1. Memorandum, Department of National Revenue, Canada (Customs Division), Ottawa, August 18, 1937, Series D. No. 87.

Note.-The Customs Act makes no provision for deduction of a cash discount for ordinary duty purposes. The fair home market value shown on invoices requires to be that on usual credit terms, and the cash discount which may be taken for cash settlement should be shown in accordance with home market practice only as terms with details as to percentage and time limitation. Where, through inadvertence, a cash discount is shown deducted on invoices, an undertaking will be required from the importer that same will not be taken unless earned by settlement in accordance with such terms.

5. Freight allowances.

Where goods are sold generally in the home market of the exporter at a common delivered price (freight prepaid or allowed) to all destinations in a prescribed territory in which the place of direct shipment to Canada is located, a similar allowance may be granted to the purchaser in Canada without rendering importations liable to special duty. Such allowance may not exceed the actual carriage charges to destination in Canada.

Note.-This allowance is not allowable for ordinary duty purposes, and should therefore be deducted as such only in the selling price column on invoices but not deducted when determining and showing the fair market value in principal markets of the country of export and at the place of direct shipment to Canada.

6. Deferred quantity allowances.

Deferred allowances granted generally in the home market on the basis of quantity purchased, when similarly granted to purchasers in Canada, will not subject importations to special duty.

Note.-Such allowances not shown and allowed and deducted on home market invoices may not be allowed for ordinary duty purposes.

Invoices to be consistent with the certificate thereon should bear a notation that the selling price is subject to a deferred quantity allowance as allowed generally in the home market.

7. Job lots, seconds, etc.

Special or dumping duty is not applicable to bona fide job lots, remnants, seconds or defective goods and used or second-hand goods, the values of which have been appraised, where the selling price to the purchaser in Canada is not less than the price as sold for home consumption under like conditions.

EXHIBIT 8

Antidumping Provisions of the Southern Rhodesian

Customs and Excise Amendment Act

May 18, 1937[1]/

6. (1) Whenever, after investigation and report by a board or person instructed to do so by the Minister of Finance, the Governor is satisfied that goods which are of a class or kind produced or manufactured in the Colony have been or are being exported to the Colony -

(a) at an export price which is less than the domestic value thereof as defined in section 10 of this Act plus the extra charges referred to therein when applicable; or

(b) at a rate of freight lower than the rate prevailing at the date of shipment for those classes of goods usually rated for shipping purposes on the same basis, or at ballast rates of freight, or freight free, or that by reason of the granting of rebates, refunds, or other allowances the net amount of freight payable is lower than that prevailing at the date of shipment; or

(c) that a bounty has been or will be granted in respect of such goods in the country in which they were produced or manufactured or from which they were exported by way of a bonus, rebate, subsidy or otherwise, whether granted by a Government or other authority or person;

and is further of opinion that detriment may from one or more of the above causes result to an industry within the Colony and that it would be in the public interest to impose in respect of such goods a dumping duty, the Governor may by proclamation in the Gazette notify the class of goods and declare that one or more of the dumping duties enumerated in sub-section (2) of this section, and set forth in such proclamation, shall be levied upon goods of such class on importation into the Colony from a country or countries named in the proclamation; and from and after the date of publication of such proclamation in the Gazette such dumping duty or duties shall, in addition to any other duties payable thereon, be charged, levied, collected and paid

1. Act No. 17, May 18, 1937, (The same provisions were found in Sec. 6 of the Customs and Excise Amendment Act of 1935, published in the Government Gazette, May 10, 1935.)

on goods so notified on importation into the Colony from the countries named: Provided that -

(i) no dumping duty or duties shall be imposed in respect of goods shipped or railed to the Colony from the country named in the proclamation prior to the date of publication thereof in the Gazette; and

(ii) such duty, or where there is more than one form of dumping, the total of such duties, shall not exceed one-half of the value of the goods for the purposes of duty as determined under section 10 of this Act.

(2) The dumping duties which may be imposed in terms of sub-section (1) shall be the following:-

(a) "ordinary" dumping duty which shall be the difference between the export price and the domestic value as defined in section 10 of this Act plus the extra charges referred to therein when applicable. Provided that such difference is greater than five per centum of the export price.

(b) "freight" dumping duty which shall be the difference between the net freight paid or to be paid and the freight which would have been payable at the rate prevailing at the date of shipment for those classes of goods usually rated for shipping purposes on the same basis.

Provided that such duty shall not apply to goods of which the value for duty purposes, added to the marine insurance and freight charges, exceeds ten pounds per ton of 2,240 lbs.;

(c) "bounty" dumping duty which shall be the amount of the bounty referred to in paragraph (c) of sub-section (1) of this section.

(3) Whenever after investigation and report by a Board or person instructed to do so by the Minister of Finance the Minister is satisfied that the exchange value of the currency of the country of origin or export of goods exported into the Colony, is depreciated in relation to Southern Rhodesian currency and is of opinion that by reason of such depreciation goods of a class or kind manufactured or produced in the Colony are being imported into the Colony at prices which are detrimental to an industry in the Colony and is further of opinion that it would be in the public interest to impose, in respect of such goods, a dumping duty, the Minister shall from time to time determine the rate at which the currency of such country shall be computed in terms of Southern Rhodesian currency for the purposes of assessing the dumping duty referred to in sub-section (4) of this section and he shall thereupon notify in the Gazette the rate so

determined and the class or kind of goods to which such duty shall apply.

(4) If after the issue of such notification any person imports from such country into the Colony any goods of a class or kind so notified, there shall be charged, levied, collected and paid on such goods on their importation into the Colony, in addition to the duties otherwise prescribed, an exchange dumping duty equal to the difference between the cost free on board at the port of shipment of such goods to the importer in Southern Rhodesian currency on the one hand and such cost, expressed in the currency of the country of origin or export of such goods computed in terms of Southern Rhodesian currency at the rate determined by the Minister under sub-section (3) of this section, on the other hand.

Provided that the dumping duties levied under this section on any goods shall collectively not exceed one-half of the value of such goods for purposes of duty as determined under section (10) of this Act.

EXHIBIT 9

Antidumping Provisions of the South African

Customs Tariff and Excise Duties Amendment Act, 1925

as amended in 1931, 1932, 1934, 1936 and 1937[1]

Chapter 2

15. Imposition of dumping duty:

(1) Whenever after investigation and report by the Board of Trade and Industries, the Minister is satisfied that goods which are of a class or kind produced or manufactured in the Union have been or are being or are likely to be exported to the Union -

(a) At an export price which is less than the domestic value thereof plus the extra cost of packing and packages for export, carriage to the port of shipment, and all other expenses incidental to placing the goods on board ship ready for exportation to the Union; or

(b)[2]

(c)[3]

(d) That they are being sold or offered for sale at a port of entry or at any other place in the Union in the usual and ordinary course of trade for an amount which is less than the domestic value thereof plus the extra cost of packing and packages for export, inland carriage, sea freight, insurance and all charges to that port or place, including landing transportation and delivery charges and any duty (other than a dumping duty) payable under this Act or any amendment thereof; or

(e) That a bounty has been or will be granted in respect of such goods in the country in which they were produced or manufactured or from which they were exported, by way of a bonus, rebate, subsidy or otherwise, whether granted by a Government or other authority or person; and is further of opinion that detriment may from one or more of the above causes result to an industry within

1. Law No. 36 of 1925, No. 49 of 1931, No. 27 of 1932, No. 40 of 1934, No. 25 of 1936, and No. 52 of 1937.
2. Sub-section (b) in re exchange dumping repealed by Act of 1931.
3. Sub-section (c) in re freight dumping repealed by Act of 1936.

the Union, and that it would be in the public interest to impose in respect of such goods a dumping duty, the Governor General may by proclamation in the Gazette notify the class of goods and declare that one or more of the dumping duties enumerated in sub-section (2), and set forth in such proclamation, shall be levied upon goods of such class on importation into the Union from a country or countries named in the proclamation; and from and after the date of publication of such proclamation in the Gazette such dumping duty or duties shall, in addition to any other duties payable thereon, be charged, levied, collected and paid on goods so notified on importation into the Union from the countries named:

Provided, That

(i) No dumping duty or duties shall be imposed in terms of this sub-section in respect of goods shipped to the Union from the country named in the proclamation prior to the date of publication thereof in the Gazette, and

(ii) Such duty, or where there is more than one form of dumping, the total of such duties in terms of this sub-section, shall not exceed one-half of the value of the goods for duty purposes, as defined in section 14 of this Act.

(2) The dumping duties which may be imposed in terms of sub-section (1) shall be the following:

(a) "Ordinary" dumping duty, which shall be the difference between the export price and the domestic value plus the extra cost of packing and packages for export, carriage to the port of shipment, and all other expenses incidental to placing the goods on board ship ready for exportation to the Union: Provided, That such difference is greater than 5 per centum of the export price; Provided, further, that in respect of any particular class or kind of goods the ordinary dumping duty may be limited to a percentage of the value for duty purposes, or alternatively to a specific rate per unit of quantity, volume or weight, such percentage of alternative specific rate to be determined by the Governor General and notified by him by proclamation in the Gazette.

(b)[1]

(c)[2]

(d) "Sales" dumping duty, which shall be the difference between the selling price in the Union and the domestic value plus the expenses and charges set forth in paragraph (d) of sub-section (1);

1. Sub-section (b) in re exchange dumping, repealed by Act of 1931.
2. Sub-section (c) in re freight dumping, repealed by Act of 1936.

(e) "Bounty" dumping duty, which shall be the amount of the bounty referred to in paragraph (e) of sub-section (1).

(3)[1] Whenever after investigation and report by the Board of Trade and Industries the Minister is satisfied that the exchange value of the currency of the country of origin or export of goods imported into the Union, is depreciated in relation to Union currency and is of the opinion that by reason of such depreciation goods of a class or kind manufactured or produced in the Union are being imported into the Union at prices which are detrimental to an industry in the Union and is further of the opinion that it would be in the public interest to impose, in respect of such goods, a dumping duty, the Minister shall from time to time determine the rate at which the currency of such country shall be computed in terms of Union currency for the purposes of assessing the dumping duty referred to in sub-section (4) and he shall thereupon notify in the Gazette the rate so determined and the class or kind of goods to which such duty shall apply.

(4)[2] If after the issue of such notification any person imports from such country into the Union any goods of a class or kind so notified, there shall be charged, levied, collected and paid on such goods on their importation into the Union in addition to the duties otherwise prescribed, an exchange dumping duty equal to the difference between the cost free on board at the port of shipment of such goods to the importer in Union currency on the one hand and such cost, expressed in the currency of the country of origin or export of such goods computed in terms of Union currency at the rate determined by the Minister under sub-section (3) on the other hand.

Provided,[3] that the Minister may in his discretion in respect of any particular class or kind of goods, limit such dumping duty to a percentage of the aforesaid difference or alternatively to a specific rate per unit of quantity, volume or weight, such percentage or alternative specific rate to be determined by the Minister and notified by him in the Gazette.

(5)[4] In the case of goods exported to the Union on consignment account, or for which nominal prices are charged or for which no charge is made, the cost free on board at the port of shipment shall for the purposes of sub-section (4) be taken to be the price free on board at which similar goods are ordinarily sold for export, or, if there be no such price, then the value of such goods as determined for purposes of duty in terms of section fourteen.

1. Added by Act of 1931.
2. Added by Act of 1931.
3. Added by Act of 1936.
4. Added by Act of 1932.

(6)[1] Whenever after investigation and report by the Board of Trade and Industries the Minister is satisfied -

(a) that goods which are of a class or kind produced or manufactured in the Union have been or are being or are likely to be exported to the Union from a particular country or port of shipment at a rate of freight or at freight charges less than the rate of freight certified by the South African Shipping Board as being the normal freight rate chargeable on that class or kind of goods from that country or port;

(b) that such reduction is exceptional in character;

(c) that detriment to an industry within the Union may result from such reduction; and

(d) that it would be in the public interest to impose a freight dumping duty in respect of such goods,

the Minister may from time to time determine the minimum rate of freight which shall be applicable to goods of that class or kind shipped from that country or port to any of the several ports of discharge in the Union or to any of the several ports in Africa at which goods are discharged for removal overland to the Union; and he shall thereupon notify the same in the Gazette: provided that the minimum rate so determined and notified shall in no case exceed the normal freight rate as certified in terms of paragraph (a).

(7)[2] If after the issue of such notification any person imports into the Union any goods of a class or kind to which in terms thereof any such minimum rate is applicable, there shall, if such goods have been shipped from any such country or port to any such port of discharge at a rate of freight or freight charges less than the minimum rate so determined and notified in respect of goods of that class or kind shipped from that country or port to that port of discharge, be charged, levied, collected and paid on such goods on their importation into the Union, in addition to the duties otherwise prescribed, a freight dumping duty equal to the difference between the rate of freight or freight charges actually paid and the minimum rate of freight so determined and notified.

(8)[2] A dumping duty imposed under this section shall not apply to goods admitted into the Union under rebate of customs duties in terms of section two, unless in the case of a dumping duty imposed under sub-section (1), the Governor General by proclamation has declared, or, in the case of a dumping duty imposed under sub-section (4) or (7) the Minister has notified in the Gazette that the dumping duty shall apply to such goods.

1. Added by Act of 1936.
2. Added by Act of 1936.

16. Special Dumping Duties on Wheat and Flour.

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17. Period during which Former Duties Remain Effective.

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18. Indemnity for Non-Collection of Dumping Duty on Certain Flour.

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19. Definitions: In this Chapter, unless inconsistent with the context -

"export price" means the price free on board at which goods are sold by the exporter to the importer in the Union; and in the case of goods on consignment account or for which no charge is made, one-half of the value of the goods as determined for purposes of duty in terms of section fourteen;

"domestic value"[1] means the domestic value as defined in section fourteen, less any drawback of duty granted by the Government of the exporting country in respect of the goods in question on their exportation; but in the application of the definition to paragraph (a) of sub-section (1) and paragraph (a) of sub-section (2) of section fifteen for the words "time of exportation" there shall be substituted the words "date of purchase thereof by the importer," except in the case of goods exported to the Union on consignment account or for which no charge is made;

"ballast rates" means special rates chargeable on any goods shipped as ballast or stiffening for any vessel, and being lower than the rates chargeable on those goods when carried as ordinary cargo.

Special Dumping Duty on Flour.[2]

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Special Customs Duty on Wheaten Flour and Meal.[3]

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1. Definition of "domestic value" amended by Act of 1936.
2. Sec. 2 of the Act of 1926. This duty is not now in operation.
3. Sec. 2 of the Act of 1931.

Special Customs Duties on Wheat, Wheaten Flour and Wheaten Meal.[1]

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Special Customs Duty on Oats.[2]

Subject to the exemptions, and to any suspensions, rebates, and conditions permitted or provided for by the principal Act, there shall be charged, levied, collected and paid on oats in the grain on importation into the Union, in addition to the duties set out in the First Schedule to that Act, as amended by this Act, a special customs duty per cental equal to the amount by which seven shillings exceeds the cost per cental to the importer at the port of importation in the Union, which shall include the cost of packing, packages, landing charges, dock dues and the duties otherwise payable thereon: Provided that the cost of such oats per cental to the importer, free on board at the port of shipment, or if the oats have been imported overland free on railway truck or other vehicle at the place of despatch, shall be taken to be a sum not greater than the ordinary market price for export per cental at the time of purchase expressed in Union currency, of similar oats free on board at the port of shipment, or free on railway truck or other vehicle at the place of despatch (as the case may be.)

Special Duties on Iron and Steel Products.[3]

(1) Whenever, after report by the Board of Trade and Industries, the Minister is satisfied that iron and steel products of any particular class or kind manufactured in the Union have been or are being or are likely to be exported to the Union at a price that would cause detriment to the iron and steel industry in the Union, and is further of the opinion that it would be in the public interest to levy in respect of such goods a special duty, the Minister may, from time to time determine in respect of that particular class or kind of iron and steel products, a price on board ship at any of the several ports of discharge in the Union, or at any of the several ports in Africa at which goods are discharged for removal overland to the Union, below which price that class or kind of goods shall not be imported into the Union through that port; and he shall thereupon notify the same in the Gazette: Provided that the price so determined and notified shall be an amount which, in the opinion of the Minister, based upon a report made by the Board of Trade and Industries, does not exceed the fair average price on the world's markets, plus normal insurance and freight charges to the port of discharge.

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1. Sec. 3 of the Act of 1931.
2. Sec. 8 of the Act of 1934.
3. Sec. 9 of the Act of 1936, as amended by the Act of 1937.

(2) If, after the issue of such notification, any person imports into the Union any goods of a class or kind, to which in terms thereof such price is applicable, at a c.i.f. price which is less than the price so determined and notified, in respect of the port of discharge of such goods, there shall be charged, levied, collected and paid on such goods on importation into the Union, in addition to any other duties payable thereon, a special duty, equal to the difference between the said c.i.f. price and the price so determined and notified.

(3) If, after the issue of such notification any goods of a class or kind to which in terms thereof such price is applicable, are sold or offered for sale by the importer or any other person so determined and notified plus landing, transportation and delivery charges and the duties payable under the principal Act and this Act, there shall be charged, levied, collected and paid on such goods in respect of their sale, a special sales duty which shall be equal to the difference between the selling price and the price so determined and notified plus the charges and duty mentioned in this sub-section, and which shall be payable by the person so selling such goods or offering such goods for sale: Provided that the Minister may, if he is satisfied that the goods have deteriorated in quality or value after importation, reduce, in respect of such goods, the price so determined, and notified, and the special sales duty upon such goods shall thereupon be charged, levied, collected and paid accordingly.

(4) For the purposes of this section, "c.i.f. price" shall mean the price paid by the importer for the goods on board ship at the port of discharge including insurance and freight charges, or the export price as defined in section nineteen of the principal Act together with insurance and freight charges paid or to be paid for conveyance of t he goods to the port of discharge.

(5) No special duty or special sales duty shall be payable under this section in respect of goods which were shipped to the Union on or before the twenty-second day of May, 1936, or which the Commissioner of Customs is satisfied were purchased or ordered before that date for shipment to the Union in order that they may be used in the fulfilment of contracts entered into before the twenty-second of May, 1936, for the erection of buildings or constructional works.

(6) The Minister shall, in the course of each ordinary session of Parliament, lay upon the Tables of both Houses of Parliament a report showing the prices charged by producers in the Union for the classes and kinds of iron and steel products in respect of which a price has been determined and notified in terms of this section, and the prices charged for those classes and kinds of goods by producers in the principal countries from which such goods are exported to the Union.

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